

# CITYWIDE ZAI

Case Number	Date	Summary
121	11/21/1941	Listing uses permitted in zones
127	11/26/1941	Artistic glass work permitted in M-2 or D
198	5/14/1942	Allowing 40 pound capacity cleaning units
283	10/7/1942	Clarifying accessory building
310	1/5/1943	War worker housing subject to zoning
440	9/27/1943	Installation of Full Circle Tire Retreading Molds in C and C-3
460	10/29/1943	Child care financed by Fed Gov not subject to zoning
495	12/27/1943	Grain and Feed Meal Equipment Manufacture in D and M-2
553	4/14/1944	Operation of "Help Yourself Laundries" in C and C-3
614	10/10/1944	Operations of Dental Labs and Optician/Optical Goods in C zones
656	11/15/1944	Manufacture of Inner Springs permitted in M-2
657	11/28/1944	Sheet metal shops permitted in C and C-3
695	1/31/1945	Producing solvents permitted in M-2
736	4/2/1945	Ceramic manufacturing permitted in M-2
740	4/4/1945	Cleaning and storage of furs permitted in C-3
748	4/12/1945	Manufacture of ink permitted in M-2
875	9/18/1945	Manufacturing liquid starch permitted in M-2
876	10/26/1945	Frozen food lockers permitted in C-3
950	12/20/1945	Clarifying definition of "Lot"
963	1/4/1946	Raising of Guinea Pigs permitted in R-1
1120	6/18/1946	Listing uses permitted in zones
1126	7/24/1946	Light rubber manufacturing permitted in M-2
1128	7/25/1946	Measurement of ramp and stairwell height
1131	8/5/1946	Construction delayed by Veterans' Housing Program
1133	9/30/1946	Paper processing permitted in M-1
1154	12/27/1946	Gardeners' refuse yard permitted in M-1
1172	4/16/1947	Second-hand sales permitted in C-4
1204	11/26/1947	No parking required for some rec buildings operated by Dept. of Rec. and Parks
1205	12/8/1947	Dog kennels and animal hospitals permitted in M-1 but must be enclosed
1206	12/22/1947	Phone company maintenance yard permitted in M-1
1208	12/29/1947	Appliance repair permitted in C-2
1215	2/17/1948	Underground gas storage accessory permitted accessory to ag use
1220	3/23/1948	Painting automobiles permitted in C-2 if accessory to garage
1219	4/21/1948	Galvanizing metal permitted in M-3
1239	6/7/1949	Bowling permitted in C-2
1263	5/22/1950	Open storage of concrete mixers permitted in C-2
1270	10/6/1950	Front & Side Yards on designated hillside streets. Repealed by ZA 90-1439
1275	10/31/1950	Cartoon studio permitted in C-2 if no live subjects and no film production
1284	3/28/1951	Bulk petroleum distribution station permitted in M-2
1287	4/26/1951	Gas pipe control station permitted in C-2
1294	6/12/1951	Mixing rust preventatives permitted in M-1
1310	1/4/1952	Heat treating permitted in M-1
1315	3/24/1952	Manufacture of compressed oxygen permitted in M-2
1322	5/26/1952	Insecticide mixing permitted in M-2 in laboratories
1325	7/9/1952	Raising nutrias (small animal) permitted in A and RA
1330	7/23/1952	Hydroponic agriculture permitted in A/RA, not R
1332	9/18/1952	Orthopedic appliance retail permitted in C-2
1347	12/18/1952	Aircraft engine repairing permitted in M-1
1351	1/13/1953	Earthworm and grub raising permitted in A
1357	2/13/1953	Engineer lab permitted in C-2
1376	5/29/1953	Sales of antiquities allowed in C-4
1391	7/29/1953	Battery shops permitted in C-2
1393	8/26/1953	Box manufacturing permitted in M-2
1405	10/22/1953	Manufacture of pectin permitted in M-1
1412	1/8/1954	Determination of "natural ground level" for measuring fence height
1451	11/19/1954	Packaging frozen shrimp permitted in M-2
1485	1/1/1955	Boarding home and motel distinguished
1462	1/6/1955	Manufacturing powdered metal parts permitted in M-2
1467	1/20/1955	Incineration of dead animals permitted in M-3
1466	1/21/1955	Bird store permitted in C-4



1476	4/1/1955	Manufacturing charcoal briquets permitted in M2
1478	4/18/1955	Storing liquid gases, limitations
1483	5/31/1955	Uranium consulting service and selling uranium detection not permitted in C-2
1499	10/27/1955	Trench digging permitted in M-3
1500	11/9/1955	Automobile storage permitted in C-2, prohibited in C-4
1506	11/21/1955	Milk distribution station permitted in M-1
1522	4/16/1956	Acetylene welding storage permitted in M-3
1523	5/2/1956	Water softening unit service plant permitted in M-1
1541	8/29/1956	Outdoor testing of engine permitted in M-3
1550	11/16/1956	Engraving shop permitted in C-2
1520	2/26/1957	Nursery plants raised on same premises sold, permitted in RA and A
1568	2/28/1957	Printing and distribution of holiday cards permitted in CM
1569	3/4/1957	Manufacturing chemical cleaners
1570	3/8/1957	Film faults are accessory use to film exchange
1573	3/20/1957	Rug manufacturing permitted in CM
1575	4/10/1957	Fence height for private streets
1579	4/30/1957	Roasting and packaging nuts permitted in CM
1586	6/13/1957	Distribution of bulk cement permitted in M-3
1596	7/25/1957	Silk screen printing permitted in CM
1603	9/12/1957	Distribution of bakery goods not permitted in C-2
1604	9/20/1957	Earth stockpiling permitted in M-3
1598	11/4/1957	Aerosol packaging permitted in M-1
1612	12/6/1957	Use list for M-3
1619	1/24/1958	Pool cover regulations
1613	2/6/1958	Manufacture of pipes permitted in M-3
1622	4/14/1958	Observatory permitted in C-2
1629	5/14/1958	Signs or roof structures on penthouse permitted in CR zone
1630	5/27/1958	Organ pipe permitted in C-2
1634	6/11/1958	Manufacturing insulation permitted in M-3
1640	7/22/1958	Soil stockpiling permitted in M-3
1642	8/1/1958	Dye laboratory is incidental to wholesale warehouse
1643	8/13/1958	Nursery school is accessory to elementary school in R-4
1650	9/29/1958	Retail store for rubber or metal stamps permitted in C-2
1653	10/28/1958	Installing sodium silicate permitted in M-3
1654	11/3/1958	Manufacture of cotton filler batts permitted in M-2 with limitation
1654	11/5/1958	Processing fibrous materials permitted in M-2
1656	11/17/1958	Barber shop at Loyola University permitted in R-4
1657	11/28/1958	Motion picture editing permitted in CM
1658	12/1/1958	Affidavit for owner's signature for parking - requires owner's signature, not 99-year lessee's signature
1659	12/3/1958	Upholstery shop permitted in CM
1661	12/5/1958	Churches not permitted in C-1
1667	1/13/1959	Brass foundry permitted in M-3
1722	3/2/1959	Incidental repair of cigarette vending machines permitted in C-2
1676	3/3/1959	Transferring cement from rail car to truck permitted in M-1
1684	5/14/1959	Open display of merchandise on sidewalk not permitted
1685	5/29/1959	Automobile amusement rides permitted in C2
1696	8/20/1959	Automobile exhaust test station permitted in C-2
1703	10/8/1959	Trampoline Center defined
1708	11/27/1959	Dairy products store permitted in C-1
1660	12/1/1959	Manufacture of phonograph records permitted in M-1
1662	12/9/1959	Manufacturing rubber permitted in M-2 and M-3
1711	12/16/1959	Formulating chemical solutions permitted in M-1
1714	1/6/1960	Manufacturing rubber goods, permitted to limited extent in M-1
1718	1/24/1960	Handicraft program for mentally retarded persons permitted in CM
1715	2/4/1960	Calibration shop for precision instruments permitted in C-2
1727	4/29/1960	Magnet cutting before sale not permitted in C-2
1734	6/2/1960	Food analysis by USDA permitted in CM
1740	7/12/1960	Packaging and distribution of herbs permitted in CM
1746	7/26/1960	Manufacturing and distribution of plastic bags permitted in CM
1754	10/1/1960	Vending machines permitted in C-1
1757	10/7/1960	Bible Study weekly meetings not permitted in R1



1759	10/20/1960	Electrologist not permitted in R zones
1760	12/5/1960	Animal crematorium first permitted in M3
1770	2/27/1961	Refuse transfer station for bones, meat, garbage permitted in M-3
1772	3/17/1961	Open air dining and dancing first permitted in C-2
	5/12/1961	Boarding home for aged permitted in RE
1787	5/26/1961	Family boarding homes for aged permitted in R-1
1790	5/31/1961	Special Care Homes permitted in A-1
1795	6/28/1961	Pest control business with 5 trucks permitted in M-1
1808	8/17/1961	Outdoor dining for restaurant permitted in C-2
1809	8/24/1961	Prepackaged radioactive waste permitted in M-2 if licensed by Fed Gov
1820	11/6/1961	Silversmith electroplating first permitted in C-2
1857	2/11/1962	Typing service not permitted in R5-4
1847	3/9/1962	Food preparation permitted in CM
1843	3/13/1962	Custom clean car wash permitted in C-2
1853	3/27/1962	Substandard parcel defined for irregularly shaped lots
1840	3/28/1962	Potted plants at nurseries in A zone
1850	3/29/1962	Mushroom growing, indoor, permitted in C-2
1871	5/22/1962	Billiard and pool hall prohibited in C4
1878	6/6/1962	Agency babysitters defined
1468	6/13/1962	Drive-in Depot for milk is accessory in RA
1892	7/30/1962	Interpretation of fence or solid wall
1896	8/6/1962	Toilet cleaning compounds permitted in M-2
1902	8/10/1962	Waiving of required parking spaces
1846	8/13/1962	Appeal of DBS determination: no aggrieved party status
1895	8/31/1962	Retail awning shop permitted in CM, not C2
1913	10/2/1962	Food processing for vending machines permitted in CM
1928	12/12/1962	Painting pictures in home in R-1 to sell not permitted in R-1, even if sold off-premises
1977	4/12/1963	Day care center permitted in M zone
1965	5/14/1963	Storage of explosives not permitted in M-1 b/c first permitted in M-3
2003	6/1/1963	Height for nonconforming fence/dwelling in M-1
2012	6/21/1963	Quality control lab with max 150 sq ft accessory to office
2027	8/6/1963	Keeping of peacocks permitted in R-1, but not for sale
2037	9/6/1963	Emergency exit path through R-3 not permitted, it isn't permitted or accessory use
2035	11/20/1963	Auto tow truck service for wrecked vehicles permitted in C-2 only if you repair them
2054	11/20/1963	Trade bindery is not permitted in C-2, it is similar to book bindery and different from accessory bindery operations
2072	12/16/1963	Plumbing shop defined
2073	12/17/1963	Racing autos or horses is not permitted in M-1, first permitted in M -2
2076	12/26/1963	Appeal from DBS re: tandem and parking lot slope. Two car is maximum, requires attendant. 5% grade is reasonable.
2143	6/13/1964	Distributing hot/cold water only permitted in C-2 as accessory use, if not accessory then you are "public utility" or "pumping plant" which is not permitted
2156	7/27/1964	Aircraft assembly first permitted in M-2, not permitted in M-1
2160	8/6/1964	Auto repair permitted in C-2 if enclosed
2161	9/11/1964	Refuse truck storage/repair first permitted in M-1, not permitted in C-2
2203	11/24/1964	Testing of turbochargers first permitted in M-2, not permitted in M-2 (Citing ZAI 1541)
2211	12/9/1964	Hammer mills permitted in M-2 if enclosed, M-3 if unenclosed
2243	2/18/1965	Public alley may not serve as required passageway
2325	9/2/1965	ZAI 1350 already said Automobile for Hire, unenclosed, is prohibited in C-4
2339	10/15/1965	Potter/ceramics permitted in C-2, but you need permit for kiln, ZAI can't waive that requirement
2358	12/2/1965	Dressing room and offices incidental to but not on same site as studio permitted in C-2
2361	12/3/1965	Private elementary school for exceptional children permitted in R-4
2369	1/26/1966	Interpretation of Front yard and original frontage
2369	1/26/1966	"Original frontage" for property rearranged to front different street would not apply to record lots in urban-type subdivision
2373	2/2/1966	Interpretation of regulations concerning incidental automobile/trailor/truck sales area
2377	2/7/1966	Parolee rehab not permitted in R-4
2370	2/9/1966	Stereotype matrix production (printing and engraving) permitted in C-2
2381	2/24/1966	Nursery school in conjunction with school permitted under 5 conditions: accessory to church, teachers employed by church, conditions don't prohibit school, complies with building code, no day care.



2398	5/12/1966	Limited storage of retail merchandise (with incidental office) in connection with (but not in same building as) retail store operation, permitted in C-2
2412	6/3/1966	Dental equipment/supply/repair store permitted in C-2 if retail, but if any wholesale # of employees is limited
2413	7/8/1966	Sales promotion dep't for nat'l corp permissible in C-2 only if no manufacturing or production and if floor area is less than 4500 sq. ft.
2425	8/5/1966	Pump station with oil pipeline permitted in M-2 only if no storage tanks or exposed oil
2399	8/23/1966	Definition of "Transitional Lot" only applies to part of lot, but you must first take issue up with DBS
2472	12/30/1966	"Secondhand store" does not include antique shop, art galleries, secondhand book store, and postage/coin stores. These are permitted in C-4.
2530	7/13/1967	Storage of buses less than 5600 lbs permitted in C-2
2520	9/11/1967	Second revised list of uses permitted in various zones (list should be attached to original)
2684	3/26/1969	Community Antenna System for TV or radio permitted in C-2, C-4, C-5 and C-M only if it does not exceed higher of 35 ft above ground or 20 ft above roof of building
2425	7/3/1969	Pump station with oil pipeline permitted in M-2 only if no storage tanks or exposed oil
2725	8/22/1969	Underground fuel storage tanks in connection with private fuel dispensers permitted in P zone if your land has both P and C or M zoning
2796	7/17/1970	Institution housing "light mental cases" defined, distinguished from other institutions
2339	7/24/1970	Clarification: pottery/ceramics permitted in C-M, not C-2
2817	10/7/1970	Report on maintenance of flagpole in P zone
2499	3/11/1971	Plastic laminated plaque manufacturing first permitted in CM, not permitted in C-2
2689	3/30/1971	Dog race track is similar to horse race track, first permitted in M-3 no nearer than 500 ft from more restrictive zone
2852	12/17/1971	Half-way House permitted in single-family subject to conditions (max 5 people because of definition of family)
2850	3/8/1972	Coin-operated car wash in C-2 zone abutting A or R zone requires wall enclosures
2850	3/8/1972	Establishes development and operational standards for car washes
2914	4/10/1974	Compressed Natural Gas refueling permitted in C-2
3001	2/25/1975	Aluminum recycling center for household produces first permitted in M-2, not permitted in C-2
3073	2/4/1976	Racing electronic 3/4 scale racing cars first allowed in M-3
3062	2/24/1976	Outdoor skate-board track first permitted in C-2 only if enclosed
78-004	1/30/1978	Mannequin manufacturing permitted in MR1
77-048	3/31/1978	Horse show is accessory to riding academy and stable for boarding/training of horses IF all of the following (a) any rider is member; (b) any horse is boarded or trained on site; (c) horse show is conducted on same site; (d) no advertising of show.
78-0100	10/25/1978	Tennis courts accessory to residential if on the same lot + lots of standards
80-0007	5/16/1980	0-foot yard setbacks in Venice
2381	5/15/1981	Parochial schools, headstart programs and child care are customarily incidental to church certain conditions
80-0141	5/20/1981	What is "substantial" connection for purposes of attachment to structure
82-0281	4/20/1983	Reduced rear yards and over-in height fences allowed in R1-1 and RW-1 lots westerly of Via Dolce along Ballona Lagoon
86-1089	10/9/1986	height/grade not measured from lowest point of adjacent stairway
87-0395	4/13/1987	Clarifications. Initiated by applicant - plan approval; initiated by ZA - no fee, but mailed to adjacent
87-0620	6/5/1987	Appeals from and to ZA
88-0466	4/4/1988	VSAT Antennae are considered accessory to main use in C or M
88-0600	5/12/1988	Height and Retaining Walls
88-0590	6/30/1988	Interpretation of Commercial Corner Ordinance
88-1335	10/27/1988	Fabrication of light weight steel allowed in M1, M2, and M3 zones
88-1405	12/13/1988	Criteria for parking assembly
89-0400	5/25/1989	Conditional use permit required for elementary and high schools in M and CM Zones
89-0944	8/16/1989	Interpretation of various provisions of the mini shopping centers ordinance
89-1317	12/5/1989	Tow truck dispatching business allowed in C2
89-0762	2/22/1990	Reduced rear yards and over-in height fences allowed in R1-1 and RW-1 lots in Del Rey tract
89-1339	3/30/1990	Measurement of height of buildings on sloping lands
90-0080	5/7/1990	Interpretation of temporary dwelling units and kitchen facilities
90-1392	12/28/1990	On-site and off-site alcohol licenses are deemed separate, unless an application requests otherwise
90-1393	12/28/1990	Centers composed of commercial and industrial uses may be subject to mini-mall ordinance
90-1439	1/10/1991	In hillside areas, setbacks along side streets of a corner lot or front yard setbacks do not need to be observed by a structure
90-1440	1/10/1991	Swap Meets require use approvals from the ZA



91-0442	7/5/1991	Radio broadcast studio allowed by-right in MR Zones
87-1100	10/3/1991	Mobile trailer or box trailer for storage permitted by-right
91-1025	11/19/1991	Dog and cat grooming not permitted by-right in C4 Zone
91-0845	12/19/1991	Grade is measured from lowest point of elevation, including a stairwell if used for primary access
91-1021	1/15/1992	Baseball card sales permitted by-right in the C4 Zone
92-0408	3/7/1992	Outdoor soil processing is permitted by-right in M2 and M3; indoor soil processing permitted by-right in any industrial zone
92-0304	3/20/1992	Composting permitted by-right in the "inner" M3 Zone
92-0358	3/25/1992	Procedure for establishing specialized mobile radio facilities
91-1091	4/9/1992	Proposed residential use requires zoning approval if closer than 35' to equine use
92-0448	4/24/1992	Permissible occupancy/assembly area in hotels
92-0449	7/1/1992	[Q] R5-2D-O zone does not allow C uses; FAR of 1:1 to 3:1 triggers Q condition 6
92-0831	7/22/1992	Entitlements run with land, not owner
92-0911	8/20/1992	Projects in plan checks by August 31, 1992 and regulated by an ICO, must be consistent with ICO requirements prior to entering plan check
92-0911	8/20/1992	Project Permits and Interim Control Ordinances
91-0845	11/23/1992	Temporary suspension of ZAI 91-0845. Effectively reinstates ZAI 86-1089
93-0228	2/2/1993	Nonconforming width/area may be used without variance
93-0135	2/2/1993	Mini-shopping center parking required downtown. Superseded
92-1025	3/5/1993	Day care programs are to be considered customarily incidental to a religious institution if standards and limitations are complied with
93-0004	3/19/1993	An establishment of An elapsed time period does not need to apply before a refiling may take place
93-0112	3/25/1993	Sale of pinball machines, arcade games, jukeboxes allowed by-right in C1.5 and C4
93-0231	3/25/1993	Parking requirements for acupuncture and acupressure clinics
92-1171	8/26/1993	Karaoke clubs are to follow parking regulations designed for nightclubs
93-0823	9/1/1993	Permitted by-right in the M2 Zone
93-0905	10/22/1993	Bio-energy recovery system allowed by-right on brewery site
93-0541	11/10/1993	No parking shall be required for cellular telephone facilities
93-0840	12/17/1993	Telecommuting from one's own residence shall be permitted
93-1069	1/6/1994	Deviations from sections 12.21 A 6 and 12.21 C 1 g for a proposed public parking area shall be treated as area matters
94-0014	1/25/1994	Hillside ordinance exception - 750 square feet cumulative area of additions
94-0305	5/24/1994	Interpretation regarding street standards in hillsides
94-0538	6/15/1994	LAPD driver training facility permitted in PF Zone
95-0614	8/17/1995	Certain uses within a conditional use category may be allowed by right in certain zones but require a conditional use permit in others
95-0856	11/7/1995	The Bureau of Engineering may require dedications/improvements to a lesser degree than called for under 12.37 H
96-0216	3/4/1996	The production of resources requires the establishment of a Supplemental Use District, or a Conditional Use Permit
96-0217	3/4/1996	Parking for warehouse in mini shopping center
96-0241	4/2/1996	Citywide Relationship between big house ordinance and hillside ordinance
96-0743	6/26/1996	An oilless massage of the head, neck, shoulder, arms, hands and back given to a person fully clothed and open to full public view is not subject to Section 12.70 of the LAMC and is first permissible in the C4 Zone, subject to the conditions specified.
96-0473	7/2/1996	Businesses giving massages to fully clothed people and open to full public view are not subject to Section 12.70
96-0778	9/4/1996	The approval of a parking lot or structure in a more restrictive zone than the adjoining use it serves does not also require a variance
96-0779	9/4/1996	A commercial facility for the boarding, raising, and breeding of horses does not need a variance in order to not provide the standard parking requirements
97-0352	6/9/1997	Credit unions allowed by-right in MR zones
98-0080	8/5/1998	Classified extended stay hotel as "hotel" and not as an "efficiency room"
98-0578	8/5/1998	"Extended Stay" facility with kitchenettes a hotel, not apartment
98-0663	8/21/1998	Health facility may be an incidental use to public housing
99-0012	3/19/1999	Mini-shopping center/commercial center does not apply in Warner Center SP
2000-0581	7/27/2000	Signs on mini-shopping centers
2001-0331	1/25/2001	Prevailing front yard setback requirements applicable to the suburban (RA) and certain other single-family zones shall apply throughout the city, including hillside areas, except as specified



2001-4000	10/9/2001	Totally multi-family residential developments subject to Commercial Corner regulations need not comply with portions prohibiting tandem parking and the requirement of transparent windows on 50% of all exterior walls facing the street
2003-0031	2/17/2003	At&t wireless may install emergency 911 GPS units on legally existing wireless telecommunications facilities by right
2003-2970	5/1/2003	Cyber cafes are regulated under Section 12.24 W 34
2003-2347	5/2/2003	(Adaptive Reuse) Does not mandate lot area requirements waiver
2003-4842	7/23/2003	Official use list
2003-5444	8/11/2003	The definition of adaptive reuse includes accessory uses
2003-5448	8/11/2003	Definition of "adaptive reuse project" in Section 4 of the Adaptive Reuse Incentive Areas SP includes any change of an existing use to new uses that are accessory to dwelling units
2004-6824	11/5/2004	Interpretation of live/work spaces as residential units
2004-7115	11/19/2004	Ground floor of mixed use developments may contain parking as well as other common facilities without being considered residential use for the purpose of determining yard setback requirements
2004-7710	12/21/2004	Superseding Case No. 2003-5444, the definition of adaptive reuse is modified
2004-7708	12/21/2004	Replaces and supercedes DIR 2003-5448 regarding definition "adaptive reuse project"
2002-3542	2/8/2005	Cruise ship companies may sell alcoholic beverages except when docked at LA Harbor without need of zoning entitlement
2005-5630	8/23/2005	Driveways to access parking spaces for single-family dwelling on downsloped lots may be constructed
2006-5863	12/4/2006	For purposes of unifying developments, two or more parcels or lots may be considered "contiguous" without actually touching each other so long as they are in close proximity and connected by substantial streetscape and landscape improvements
2006-6943	2/20/2007	Request for expiration of multiple entitlements to coincide with expiration date of ordinance
2006-6943	2/20/2007	Expiration of multiple project approvals
2006-7187	2/28/2007	Unmanned ammoniation and chloramination facilities required for compliance with Federal and State water treatment rules shall be treated no differently than are mechanical buildings that have no floor area or required parking.
2006-8263	8/23/2007	Joint living and work quarters shall be treated no differently than dwelling units
2007-3430	9/21/2007	Floor Area ratio and private open space (balconies and deck)
2006-8263	9/27/2007	For purposes of applying the Quimby Act, live/work spaces shall be treated as residential units
2007-3430	10/9/2007	Balconies or decks shall not be included in a building's floor area
2008-1250	4/3/2008	Filing fees shall be charged and collected when applications for zone or height district changes are filed and it is determined that the general plan must be amended
2008-1250	4/18/2008	Public counters to charge and collect filing fees set forth in Section 19.03 when applications for zone or height district changes are filed
2007-5927	6/23/2008	CUP applications under 12.24 W may be filed in a zone other than C or M if C or M zone uses are allowed by right in that zone
2008-4888	1/5/2009	Additions meeting the threshold in Section 16.10 B 1, B2, or B3 are subject to the Green Building Program
2009-2676	10/19/2009	All restricted affordable units may benefit from parking standards set forth in LAMC 12.22 A 25 d 2
2010-0977	5/6/2010	Clarifies applicability of Chapter 1 of LAMC to Marijuana Collectives
2010-0977	5/21/2010	Provides regulations for Medical Marijuana Collectives
2010-2713	10/22/2010	Shade structures shall not be calculated as floor area, and therefore such structures shall not require any parking spaces
2010-2714	10/22/2010	Massage parlors are not subject to adult entertainment regulations
2011-3361	7/11/2011	LA County Dept. of Beaches and Harbors may apply directly to California Coastal Commission
2012-0773	4/30/2012	Allow 8 foot fences, pilasters, and light fixtures for pocket parks identified in 50 Parks Initiative
2012-3101	11/26/2012	Bicycle share stations shall be allowed in C, M, PF, OS, and RAS Citywide, and R5 in the Central City Community Plan
2012-2885	1/4/2013	Uses not specifically permitted in MR Zones may be permitted under certain circumstances
2013-3104	10/30/2013	Recission - 2013-3104 (ZA) - LASC Case no. BS147232
2013-3104	11/14/2013	Definition of 'kennels' per 12.03 excludes pet shops that are lawfully permitted by the Department of Animal Services
2014-3398	9/18/2014	A solar photovoltaic power source is similar to a thermal power source
2014-3398	9/18/2014	Solar Photovoltaic power source is similar to a thermal power source
2014-3943	10/24/2014	Floor Area relocated within a nonconforming building shall not be considered as adding to or expanding a nonconforming building
2015-2348	7/8/2015	Updated Use List
2016-4167	11/2/2016	Interprets second dwelling unit ordinances
2016-4167	11/16/2016	Second dwelling unit allowed by-right on a single family zoned lot
2015-2348	4/12/2017	Amendment to Fitness Studio and Gymnasium



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OFFICE OF THE  
**ZONING ADMINISTRATOR**

LOS ANGELES  
ROOM 361, CITY HALL

October 7, 1942.

Department of Building and Safety,  
City of Los Angeles,  
Los Angeles, California.

Honorable City Planning Commission,

Charles B. Bennett,  
Director of Planning.

Walter C. Peterson,  
City Clerk.

Z.A.I. CASE NO. 283  
Interpretation of Yard  
Regulations concerning  
location of accessory  
buildings and attach-  
ments of accessory units  
to the main buildings.

Greetings:

In the matter of the request of the Department of Building and Safety for an interpretation of Section 15.08 (h) of the Municipal Code as it concerns the location of accessory buildings and accessory units which may be attached or represented to be attached to main buildings, please be advised that the Zoning Administrator has made the following interpretation and ruling concerning this particular subject matter:

INTERPRETATION AND RULING

After thorough consideration of the intent of the provisions of various sections of Chapter 1 of the Municipal Code and particularly Article 5 thereof, and after considering the conflicting interpretations and methods of construing Code provisions and various types of cases where an endeavor has been made to circumvent and evade the intent of the requirements concerning the location of separate accessory buildings by attaching said buildings to a main building by means of a flimsy artificial roof connection, and after considering the opinion of the City Attorney dated March 11, 1942 concerning this subject matter and which opinion might be construed as even affecting the common method now employed of constructing garage units as an integral part of a residential building, which was never the intent of the provisions of the Yard and Zoning regulations, it is evident that there is need for clarifying the matter



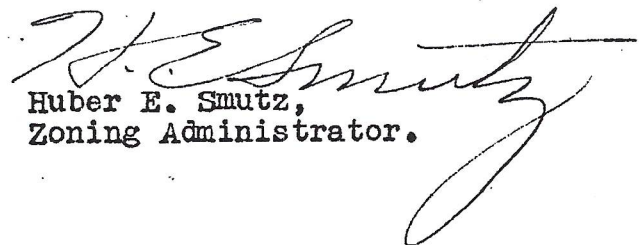
Pafe #3  
Z.A.I. Case No. 283  
(Y.V. Interpretation).

10-7-42

in which case if the accessory unit is a private garage the garage doors may not be located in that wall of the garage facing toward the front of the lot.

In the case of a two story building the accessory unit shall be actually designed as part of the main building and meet at least one of the above mentioned three requirements, except that where the accessory unit is attached to a two-story wall of the main building then the connecting roof between the accessory unit and the main building under No. 3 and the roof over the connecting hallway or passage under No. 2, need not be connected with the roof of the main building, but shall be of the same general design as the roof of the main building and be attached to the wall of the main building in a proper architectural manner. It is understood, of course, that in any case where an accessory unit is considered as a part of the main building as set forth above, said accessory unit shall meet all of the front, side and rear yard requirements for any portion of a main building.

Yours very truly,

  
Huber E. Smutz,  
Zoning Administrator.

HES:EQ



OPINION RE:

ZONING - YARD ORDINANCES - ACCESSORY BUILDINGS -  
PROVISIONS OF SUB-SECTION (h) OF SECTION 15.08 OF  
THE LOS ANGELES MUNICIPAL CODE, WHICH REQUIRE THAT  
ALL ACCESSORY BUILDINGS BE PLACED ON REAR HALF OF  
LOT, ARE VALID.

Department of Building and Safety  
Room 200 City Hall  
Los Angeles, California

Under date of December 5th, you requested an opinion from this office on the following question:

By your communication of January 16th, 1942, you have requested that we supplement our previous opinion by giving you an answer to the following questions:



ANSWER TO QUESTION NO. 2

Yes.

COMMENT ON QUESTION NO. 2

In the case of Sundeen vs Rogers, 141 Atl. 142; 57 A.L.R. 950, the court had before it a provision of the zoning law of the City of Manchester, New Hampshire, which provided that in certain residential districts certain auxiliary buildings should be erected on the rear half of the lot only. This provision is almost identical with the provision of Sub-section (h) of Section 15.08 of the Los Angeles Municipal Code. In that case it was contended that the provision of the Manchester ordinance was an unconstitutional infringement on petitioner's property rights, and that the same amounted to the taking of plaintiff's property without compensation. The court, in over-ruling the contention, said: "It is evident that such a requirement may make for better conditions of light and air, and perhaps tend to reduce fire risks. It may also be thought to promote the safety of the public over what it would be if a garage opened directly into the street, thereby preventing a view from the car which was moving out onto the highway. These considerations would justify the conclusion that the regulation was a reasonable one, and that it would promote the public health and safety."

Very truly yours

RAY L. CHESSBRO, City Attorney

By

Clyde P. Harrell, Jr.  
Deputy City Attorney

CPH:CK  
3/6/42



December 20, 1945

Walter C. Peterson  
City Clerk's Office  
Room 195  
Building

Honorable City Planning Commission

Charles B. Bennett  
Director of Planning

Department of Building and Safety

RE: Z.A.I. CASE NO. 950  
Interpretation of Definition  
of "Lot" as Applied to  
Residence District  
Regulations  
Under Article 6,  
Chapter 1 of the  
Municipal Code

Greetings:

In the matter of the report of Investigator Ourston, in charge of zoning violations, concerning the confusion which has arisen in applying certain provisions of the Residence District Regulations contained in Article 6, Chapter 1 of the Municipal Code, due to the definition of "lot" contained in Section 12.00 of the Municipal Code, please be advised that the Zoning Administrator has made the following interpretation and ruling, which under certain circumstances permits an improvement on a large acreage type parcel to be considered only as a use occupying a lot with only 100 feet of frontage rather than a use occupying the total frontage of the acreage parcel held in the same ownership.

INTERPRETATION AND RULING

After thorough consideration of the statements contained in the report of the Investigator and the numerous inquiries which have come to the office concerning this same problem, I find that there is considerable confusion in applying the provisions of the Residence District Regulations in the suburban areas where the property has not been divided into record town lots; but there exists many acreage parcels with an improvement or use occupying a portion of the acreage parcel held in single ownership. The definition of "lot", as contained in Section 12.00 of the Municipal Code and which also applies to Article 6 of said Code, includes as a lot a parcel of property abutting at least one public street or alley and held under separate ownership prior to the date the first specific zoning became effective on such lot by its inclusion on a zone map adopted by Ordinance. Under this provision, any parcel abutting a street and held under separate ownership from adjoining property would constitute a "lot" in the Residence



December 20, 1945

District, since this property as governed by the Residence District Regulations has not as yet been specifically zoned, and technically a large acreage parcel still held in one ownership would have to be considered as one lot in applying the Residence District Regulations. This technical interpretation has proven inequitable and works a considerable hardship in many cases, since certain business uses are not allowed where lots comprising 50% or more of the frontage in a block are improved with residential and institutional type uses, and a large acreage lot occupied by a dwelling would have to be all considered as used for dwelling purposes, even though the site for the dwelling is confined to a small portion of the acreage lot, and the remainder is vacant. Furthermore, in applying the Yard Regulations of Article 5 to the Residence District, certain inequities not intended may arise, since a small business use occupying a large acreage parcel, if the whole acreage parcel were considered as used for business, might constitute 30% of the frontage in the block and permit the waiving of front and side yard requirements to the detriment of several existing residences on smaller parcels in the same block. A more equitable interpretation of the definition of "lot" to carry out the intent and purpose of the Yard and Residence District Regulations as applied to these situations would be to consider an improvement or use occupying a portion of an acreage parcel as occupying a lot with only 100 feet of frontage, which is the average for individual building site cuts in the suburban-type districts under consideration.

Therefore, by virtue of the authority contained in Sections 15.14 (b) and 16.06 (b) of the Municipal Code, it is hereby interpreted and determined that for the purpose of determining whether property classified in the Residence District under Article 6, Chapter 1 of the Municipal Code shall be subject to the Yard Regulations applicable to the R-2 Zone or those applicable to the C-3 Zone as provided in Section 15.01 of said Code, and also to determine whether the block shall be limited to the uses listed in Section 16.03 (a) or may also include those uses permitted by Section 16.03 (b) of said Code, that in those blocks where there is one or more individual lots having a frontage of 200 feet or more, each held in one ownership, then any individual main building or unit group of buildings confined to a site having a width of not exceeding 100 feet shall be considered as a use occupying 100 feet of frontage, and the remainder of the lot shall be considered as vacant. If the lot is improved with two or more main buildings not arranged as a unit group nor occupying the same 100 foot wide site, then the site for each of said separate main buildings or unit groups of buildings shall be considered as a use occupying 100 feet of frontage. Any lot less than 200 feet in width when occupied by a use shall be considered as an improved lot for its entire width.

Yours very truly,

Huber E. Smatz  
Zoning Administrator

HEE:TS



1862  
October 31, 1950

Mr. Joseph Doyle, Atty.  
410 N. Larchmont Blvd.  
Los Angeles 4, Calif.

Re: Z. A. I. Case No. 1275  
Animated Cartoon Studio  
in C-2 Zone

City Clerk  
Rm. 195, City Hall  
Los Angeles 12, Calif.

Department of Building and Safety

Greetings:

In the matter of the communication from Joseph Doyle requesting an interpretation of the zoning regulations as they apply to the operation of an animated cartoon studio in the C-2 zone, please be advised that the Zoning Administrator has made the following interpretation and ruling permitting animated cartoon studios in the C-2 zone under certain limitations.

INTERPRETATION AND RULING

After thorough consideration of the statements contained in the communication and the file in Z. A. I. Case No. 1275 wherein a similar request was investigated and determined under previous zoning regulations, which are by reference made a part hereof, as well as previous personal inspection of the activities involved in the production of animated cartoons for motion picture release purposes, I find as follows:

The production of animated cartoons consists essentially of drawing various subjects similar to an art studio, which various drawings are individually photographed on a motion picture film which, when run off at high speed, produces animation to the various individual drawings. The activity involved in the production of these animated cartoons is no more than would be involved in the operation of an artists studio with a number of employees and architects' office or a photographic studio, all of which are permissible uses in the C-2 commercial zone,



October 31, 1950

and such activity, if no live subjects are used which require rapid motion picture photography, would be similar to and no more objectionable than many other uses automatically permitted in the C-2 commercial zone.

Therefore, by virtue of authority contained in Section 12.21-A, 2 of the Municipal Code it is hereby determined that the business of producing animated cartoons not involving use of live subjects or processing of motion picture film is similar to other uses permitted in the C-2 zone and such a use is hereby permitted to operate in the C-2 zone if conducted entirely within a completely enclosed building. Furthermore, that the List of Uses Permitted in Various Zones adopted by Z. A. I. Case No. 1120 is hereby amended and modified by inserting in its proper alphabetical order among uses permitted in the C-2 zone the following:

"Animated cartoon studio (in a completely enclosed building with no use of live subjects and no processing of motion picture film)."

Very truly yours,

HUBER E. SHUTZ  
Zoning Administrator

HES:at



CITY OF LOS ANGELES  
CALIFORNIA

HUBER E. SMUTZ  
ZONING ADMINISTRATOR



NORRIS POULSON  
MAYOR

DEPARTMENT OF  
CITY PLANNING  
—  
OFFICE OF THE  
ZONING ADMINISTRATOR

361 CITY HALL  
LOS ANGELES 12  
MICHIGAN 5211

1460 J.  
April 3, 1957

Frank Malet  
2016 Cummings Drive  
Los Angeles 27, California

Z. A. I. Case No. 1575  
Re: Linwood Drive and  
Cummings Drive  
Laughlin Park area

Dear Sir:

In response to your communication of March 25, 1957, please be advised that it would not be possible under the circumstances for the Zoning Administrator to classify Lots 4 and 5, Tract 7964, as in a hillside district. The fact is that these lots presently have a questionable status as far as the zoning regulations are concerned since they only have access by means of private streets, which private streets have never been approved by the City Planning Commission as adequate for purposes of access as required for a lot under the Zoning Ordinance, nor have the streets been approved as private streets under the Private Street Ordinance. Several of the private streets in the Laughlin Park area have been approved by the City Planning Commission but, as far as I can ascertain, the portions of Cummings Drive and Linwood Drive adjacent to the lots in question have not been so approved. Even if these streets were approved private streets this particular portion of Laughlin Park would not qualify for a hillside determination by the Zoning Administrator and any adjustment in yard spaces could only be considered by individual applications for some variance.

I would suggest that you and your neighbors abutting Cummings Drive, Linwood Drive and the other private streets in this immediate area, apply to the City Planning Commission for approval of these streets as private streets. Information on procedure can be obtained from the Subdivision Section of the department, Room 260-A, City Hall.

Very truly yours,

HES:five

Huber E. Smutz  
Zoning Administrator

cc: Bert Pullmer

Department of Bldg. & Safety



RECEIVED  
CITY OF LOS ANGELES

MAY 8 1962

ZONING ADMINISTRATOR

Z. A. I. CASE NO. 1853-A  
APPEAL OF JOHN F. COSTELLO

REPORT OF PUBLIC HEARING  
CONDUCTED BY CHIEF ZONING  
ADMINISTRATOR, HUBER E.  
SMUTZ, ON APRIL 10, 1962,  
AT 9:30 A.M., IN ROOM 361-A,  
DOWNTOWN CITY HALL, LOS  
ANGELES, CALIFORNIA.

APPEAL BY JOHN F. COSTELLO from the decision of the Department of Building and Safety, and in particular the action of the Board of Building and Safety Commissioners, which denied his appeal to them and upheld the ruling of the Department's staff that the lot under question has a required minimum width of 50 feet at the mid point, that being the only issue here is interpretation of the zoning ordinance to the matter of lot width.

The Chief Zoning Administrator read the report of the investigator and explained the procedure to be followed in conducting the hearing.

JOHN F. COSTELLO  
Appellant

Mr. Costello, 11015 Aqua  
Vista, North Hollywood,  
stated as follows:

"I did want to acquire the piece of property, if it were possible, feeling in that, however, my interest in the use of the piece of property did not evaporate. What goes on a piece of property so close to me is very important to the value of my property. For all intents and purposes, joining these two pieces of property changes none of their physical characteristics. It remains to be seen whether or not it changes their legal characteristics but they do not integrate in any way. They remain an inverted L.

"The larger piece of parcel I have never rendered an opinion on in any way. I have never felt that what was done on that parcel was any concern of mine, particularly. The objection that I have is the creation of a substandard type of architectural arrangement on a piece of property immediately next to mine. It's only 28 feet wide for a distance of 135 feet. There's nothing to my knowledge anywhere in North Hollywood that has that character of building constructed on it. Certainly not new and I don't know of any even older buildings before ordinances were approved that have that type of building on it. I think, therefore, that the constructive method used to give this joined parcel a legal width in this sense is out of line, and in my mind illegal, because I think the main intention of it, probably to start with, when you already have a situation, to do the best you can with it. Here's a situation that was deliberately created and this idea which is originally intended to help people in the City is used to lower the values of surrounding property in the neighborhood. I'd like also to say that where there's a real method and not a constructive method of determining the parcel's legality, I think the real method should be used.



"As an example, the big lot is part of a subdivision over 50 years old. Its hundred-foot frontage has been in existence that long. There's no question but that it was the front of that parcel. Now, here's an offshoot such as a finger coming down there. Now, the theory is that this is the front of the parcel, and the only reason for this type of thing would be to legally try to justify crowding both parcels with buildings, which otherwise couldn't be done. I have no objection whatsoever to the frontage being determined to be on the frontage road where the true frontage is. The actual ingress and egress to these units will be from that frontage road. The true frontage of the structure will be from that road. There will be no ingress and egress from the Aqua Vista point, other than perhaps I don't know whether they intend to put a driveway into the first apartment or not."

Mr. Costello went on to say that he announced to the Board of Commissioners at the time they told him of their decision that he would file an appeal. And in spite of this, Mr. Katz went ahead and started construction.

The appellant further stated that he has brought a civil suit against Mr. Katz after he had determined that Mr. Katz had submitted plans for a building permit. This was before Mr. Costello had filed his protest with the Board of Building and Safety Commissioners. As yet, nothing has happened on the suit.

At this time the Administrator stated, "There's a legal question involved and we have discussed that with the City Attorney. The City Charter and the Zoning Ordinance state that the filing of an appeal stays all proceedings and furtherance thereof. And my recollection of what the attorney told us was that there was some question where a permit had been issued it actually stayed construction, but it did serve as putting the owner on notice if he proceeded, he proceeded at his own risk. There is some question whether they should actually stop construction. I personally felt that it meant stopping construction, but we have to rest upon the advice of the City Attorney and we haven't gotten a final answer on that particular question."

Mr. Costello continued further, stating, "I might say here, while I am not very qualified to render this opinion, I would say any possible damages to Mr. Katz in stopping construction is not the same as it could be. In other words, most of it is on a parcel that will probably be, I am sure, built the same anyway because its shape and size and everything about it is the same, and my interest is not in that parcel whatsoever. I am speaking of the main body of the lot. I think whatever they are going to build there would probably be built exactly that way anyway. That is all I can do is think because I have never been allowed to see the plans." Mr. Costello's main objection is to the final appearance of an overcrowding of this narrow portion of the lot which he contends was not the intent of the zoning regulations in establishing minimum lot widths for building sites.



The appellant pointed out on the map of the subject property that looking at it from a frontage road, there is no question about its legality of width, and whatever was proper when interpreted in this way he would have no objection to. It is perverting the intent of that constructive method of figuring the width that he objects to.

In answer to questions submitted by the Administrator, the appellant stated that he has an old house on his property, and that he had planned to acquire the corner and improve it. He stated that his lot is 80 x 135.

The Administrator stated as follows:

"Whether it has any bearing on the question at issue, let's explore the alternatives you have implied. There being no question of interpreting this sliver parcel as part of a lot, if the width was considered parallel to Vineland rather than approximately parallel to Aqua Vista, that could be considered as a lot with approximately 235 feet of frontage on Vineland and an unusual depth varying from 28 feet for this southerly tip and around 363 feet for the other part. Now, with that type of interpretation, under the definitions in the zoning regulations, the line which abuts your property would be considered a side line since the definition of rear line is a line at the farthest distance from the front line and approximately parallel thereto. If that were done and this were considered as a lot fronting Vineland instead of one fronting Aqua Vista, this would be a side line along which only a five-foot side yard would be required. There would be a greater setback from the street, however, because the depth of the lot would be the total depth. Well, they wouldn't be able to build much of a building because there would be a 15-foot front yard measured from Vineland and a 5-foot side yard from the line adjoining your property, 20 feet, leaving 8 feet to build a building. So they couldn't build much of a building.

"It could be developed and automatically used under that interpretation of the ordinance for parking parallel to the side line. It couldn't be used for parking perpendicular to Vineland because the parking would then be extending out into the required front yard, but they could have a line of cars parallel to your common side property line."

The Administrator then asked Mr. Costello, "It is your opinion that that type of development would be less objectionable and less detrimental to your property than the interpretation that the Building Department has placed on the ordinance which allows this building construction on the narrow part of the lot?" Mr. Costello agreed that it would be.

Mr. Costello continued his presentation, stating, "I might say that this has run over quite a period of time, and last summer when I first learned of Mr. Katz' interest, I went to the Building and



Safety Department to find out whether he could build on it. I have been told at the time that I bought my property by somebody down at the State that I was the only one who could buy it because I was the only one who could use it. And the previous party I bought it from had it and so forth. And then later on I was quite amazed. I'd been told by several people, unfortunately all I did was go up to the desk and didn't seek out the head of the Department. And later on I told the State this and they sent somebody over, and he talked to Mr. Bundick. At that time Mr. Bundick was in charge, and I think Mr. Bundick was the man that Mr. March here had come to the conclusion that this constructive method to determine width if that were used that it could be built on the parcel as the plans are there now. So I definitely think that there's nothing abnormal about a parking area. There's nothing abnormal about any type of development there that would improve the looks of the corner. But to see a little narrow match-box building setting there is certainly detrimental in my opinion."

EDWARD KATZ  
Applicant

Mr. Katz, 454 Oakhurst  
Drive, Beverly Hills,  
stated as follows:

"As you know both pieces of property are under construction as one entire unit. Mr. Costello brings out a point here that we are offering a substandard construction for this type of neighborhood that will decrease the value of his property. I believe that is his main contention.

"Now, I have received a \$250 construction loan on this building. There will be 32 units that will 'out rival' anything in the entire section. As far as this narrow strip of property goes, there will be three deluxe units located within the confines of this area, plus four or possibly five parking spaces. This one unit will tie into the main unit which is the larger area of property to form an elevation that will be, if you will notice the plans, as beautiful as a building can be constructed.

"Now, as far as infringing on the rights of Mr. Costello, I have a snapshot here of his house. Now, he actually fronts on Aqua Vista. He has nothing to do with any property that fronts on Vineland. The fact that our property has a front yard setback on Vineland would more or less increase the value of his property instead of lowering the value of his property, such as he contends.

"Mr. Costello has told me that in time he intends to build on his property himself, which was the primary reason for him purchasing the property. I see nothing that this property will do but enhance the value of his property, and I can see absolutely no objection to the use of the property such as we are intending to use it."

At this time Mr. Katz submitted into evidence snapshots of the project in operation, showing what has been done.



Mr. Katz further stated that he has two studio type apartments that will rent for approximately \$200 a month, and a very deluxe one bedroom apartment which will rent for \$150 a month. The studio type apartments have part of the quarters upstairs and part downstairs. He also stated that there are two garage spaces.

ALFRED MARCH  
Interested Party

Mr. March, 9831 West  
Pico, Los Angeles,  
stated as follows:

"I am the architect of record for this project. I am not here to speak about whether or not the project is of a deluxe character or not. I am speaking of essentially whether it is first of all legal. I don't suppose I need to point out to the Zoning Administrator that the Los Angeles Zoning Plan has defined the various segments involved in this hearing. For example, it has defined what a lot is; it has defined what a front lot line is; a rear lot line. It defines a front yard; a rear yard. It defines the width and so forth. Now, I wish to read these various definitions for the purpose of putting into focus what I think is the main issue here, and that is whether or not any person has the right to purchase a piece of property, add it to his previous piece of property and thereby make a legal parcel of land on which he wishes to improve, and then, by the proper means, proceed to get a building permit and build that building.

"Now, if I may, under definitions of the Zoning Ordinance in Section 12.03, Definitions, a lot is defined as, 'A parcel of land occupied or to be occupied by a use, building or unit group of buildings, and accessory buildings and uses, together with such yards, open spaces, lot width and lot area, as are required by this Article, and fronting for a distance of at least ten feet upon a street as defined herein, or upon a private street as defined in Article 8 of this Chapter.'

"Now, first, the small parcel which was added to the larger parcel was at first, I guess, what is referred to as a reversed corner lot originally. The larger parcel was a key lot. Now, there is nothing that I know of or have known since I've been in the practice of architecture which prevents the joining of odd pieces of land together to make one larger parcel.

"Now, insofar as this ten feet is concerned, this small parcel does front for a distance of 28 feet on Aqua Vista. Consequently, if I may read further, the definition of a lot line, front, in other words, the front lot line which, therefore, will determine the front yard location, 'In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, except in those cases where the latest tract deed restrictions specify another line as the front lot line.' Now, when you look at the entire parcel, it is immediately evident that, by definition alone, the front lot line is the portion of



28 feet approximately that fronts on Aqua Vista Street. And I go further. It says rear lot line, "A lot line which is opposite and more distant from the front lot line and, in the case of an irregular, triangular or gore-shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line." Well, again it speaks for itself.

"As to what is, by definition again, the rear lot line, lot width, "The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines."

The Zoning Administrator stated, "Well, that is the issue here. In my opinion the only issue is this question of the measurement of the lot width and whether the lot has the required minimum 50-foot width at that point."

Mr. March continued further, stating, "Now, I contend that if you take a point midway from the front lot line as you're supposed to do and draw a straight line to a point midway on the rear lot line that you are, therefore, creating what is known as the mean depth of the lot. Now, the width by definition states that, if you will take that as I understand you're supposed to, and you will then at right angles to that line measure a distance of the width at that point from side lot line to side lot line, and, therefore, I maintain that it does not have to be at right angles to either of the side lot lines, but only to this mean line which is the mean depth of the property. Now, however, were we to take a line through that same point on the mean because that we cannot change, it so states here, and we were to make it at right angles to either side lot line, it would be well over the 50 feet that is required as a minimum width for a lot."

"Insofar as the rest of the definitions here about a corner lot, it merely says, "A lot situated at the intersection of two or more streets having an angle of intersection of not more than 135 degrees," which this new parcel does have."

"Now, I wish to add this thought. Apparently, Mr. Costello, the owner of the adjacent property, is speaking about this making a substandard. It's hard to use this, it's almost a redundancy or a contradiction of substandard improvement on this piece of property. However, I wish to point out that he himself tried to purchase this lot to what end? So that he could put something on there. Let's call it an apartment house or whatever you have, but his use of that same property would have entailed perhaps maybe even a worse condition, because the side yards which we now have would no longer exist because they would become a part of his own particular property and parcel."

"However, what's more important is this: Let us look at the actual project, if we may, and you will note that even though we are putting



our front yard on Aqua Vista and our rear yard at the northerly end of the entire parcel for the portion of the northerly hundred feet facing Vineland, we have still maintained a setback of approximately 15 feet as though there was a front yard there, except on the narrow piece.

"Now, if we will also look at the rear yard and we would like a comparison with what might have taken place by way of a rear yard if we had put it on the other property line. For example, opposite Vineland it would be noted that we would have a rear yard conceivably of 200 feet in length or maybe a few feet more or less, I would have to refer to the drawings, approximately be about 235 along Vineland, but the way it's now designed we have put a rear yard in there which is over 360 or 370 feet in length. But we wish to point out by all of this that the use of the entire piece of land is, at least to me, much less densely improved than had we followed the other procedures which were available to us perhaps. In any event if one were to look at the project as a whole, one would see that it's actually an improvement to the neighborhood.

"Secondly, or at least in passing, the thought has occurred to me that it doesn't matter where the entrance to an improvement is. For example, there are many structures in town which may be on the corner which may have, say, an address on one street and may have the entrance to the building on the side street or vice versa. And by the same token even by the very nature of this particular type of building which is a two-story walkup type of an apartment, garden type of apartment, each apartment has its own private stairway, and consequently, there's no, what might be considered, no main entrance to the building altogether. This is much like many garden apartments where you may have the entrance to individual apartments by way of the private stairways which go to the second floor only. So that the fact that it may have driveways both on Aqua Vista, and I wish to point out that it does have a driveway on Aqua Vista as well as on Vineland for the additional parking, the entrances to the various apartments front both on Vineland and in a sense on Aqua Vista, if you wish to come in that way, because we do have a stairway to one of the apartments right at that point.

"The further question here as to whether or not this was entered into perhaps frivolously with the idea of harassing Mr. Costello, I wish to point out that before Mr. Katz entered into any negotiations to purchase this land, he retained me as architect, had me make a thorough investigation as to whether or not, first of all, this was a legal possibility, secondly, whether or not it could work out architecturally, and also to find out whether or not there could be some saving in money from the standpoint of perhaps even putting utilities under this additional parcel of land instead of having to break up the comparatively recently paved street along Vineland to get at the utilities. I made this investigation a long time ago. And I spoke with the zoning department of



Building and Safety, and at that time Mr. Bundick was the gentleman that I spoke to. When we went over this thing from a legal standpoint and based on also the precedent that apparently had been set by the Department over the years, it apparently was agreed by us both that I could, as architect, proceed to design something, using that particular piece of property, which I proceeded to do.

"I even had a call from a representative from the Division of Highways, subsequently, prior to the formal bidding operation that was performed by Mr. Katz and Mr. Costello in order to purchase this land from the State. And the query was made of me as to whether or not we were merely trying to make a nuisance value out of what we were trying to do or whether we would actually put anything on there. And I assured the gentleman from the Division of Highways we were very seriously engaged in designing this and I could put at least three apartments on this particular property, and he says, well I didn't realize you could do that, in which case then Mr. Katz will have a very definite right to bid on this project, and that was the last time I heard from anybody from the Division of Highways or from the State, so I proceeded."

The Administrator stated, "I'd like to ask one question. Looking at the map here, it appears that this lot two, this record lot two, was a land lot parcel and apparently never had any frontage on a street. It actually fronted, before this service road was built, it fronted on the old P. & E. Right of Way. How did you get into that lot? Was there an easement over somebody's lot?"

Mr. March stated that he had no knowledge on that since Mr. Katz had acquired the land long after the State built that right-of-way turnoff.

Mr. Costello replied in answer to the Administrator's question, "This was called a Riverview Tract and was laid out as a regular tract with the exception of lots one and two, which were funny-shaped lots, and I guess those were probably the first two houses built there. And this was so long ago I guess nobody really paid too much attention to it. Both lots one and two at one time, I am sure, there access was probably on that Pacific Electric Right of Way." Mr. Costello said it was so long ago that he didn't know any of the details. Mr. Costello went on to say, "To give you an example which might indicate, my house, though I front on Aqua Vista, the old house itself actually faces toward Vineland, and it was on this same depth level of the house that Mr. Katz removed. So I imagine originally these two houses were probably out there more or less by themselves and faced on the P. & E. Right of Way. And then later on Aqua Vista was developed and it was in 1955 that the State acquired the 37 front feet on that lot two which made it 363."

The Administrator asked Mr. A. J. Lund, Secretary of Building and Safety, who was seated in the audience, the following question: "Do you



recall the issue here is essentially how you arrive at the lot depth and the lot width on these odd-shaped parcels, and apparently from what has been said, this ruling has been followed for some time of taking the midpoint on the street frontage and the midpoint on the rear line, drawing a line between them and then measure the width perpendicular to that line at the midpoint. Do you know when that ruling was first devised and applied?

Mr. Lund stated that he did not know when it was first devised, however, it was since the Comprehensive Ordinance in 1946, and it has been used for the past 10 years.

Mr. Lund further stated that his presence at the hearing was only as an observer, and the Board's action would stand on the records that were transmitted to the Zoning Administration Office previously. However, Mr. Lund was prepared to answer any questions as to the Board's intention or action.

JOHN F. COSTELLO  
In Rebuttal

Mr. Costello stated  
as follows:

"Taking points that Mr. March has made, not necessarily in order, but his statement that if I used the lot, that I would be using a substandard parcel. This is certainly the best that can be said for it is that it's argumentative. Because if I had acquired the lot, it would have completely integrated. I would have had one total rectangular parcel, 108 x 135, which is why I was trying to acquire the lot.

"Then as for his statement as to the method of determining front and back being an asset, that otherwise might not be. This is not true either, because he had to enter off of the frontage road and had to have a driveway either on my side or the other side to get back in which approximates the size of a back yard anyway.

"As to his being back on Vineland, this is true. And while I am not prepared to quote ordinances, I understand that where two parcels like this are joined, that there has to be a deference made to the previous frontage even where there is a selected attempt to make the other frontage.

"As to his statement that they also have a driveway on Aqua Vista, I think that when you have 32 units and one, at the most two people go in off one street and the other 30 go in off the other street, it's a little silly to say that you have both, implying that it's more or less of equal situation.

"His point that where the two lots joined into the old line that there is an overlapping is certainly correct, and I think that this is probably one of the great factors in depreciating. In effect, forms a courtyard around my property and the piece next to it. In other words, the buildings planned come right



down five feet, make a left turn 90 degrees, and goes down, and it's a closed-in situation. This is one of the points that I object to, and why I would very much rather see it used for parking or any other type of use.

"Now, as for these definitions, I know they are very important and I don't depreciate them whatsoever. But I think that definitions are subject to the general purpose and intent of zoning and planning. And I think to leave this entirely in the Building and Safety Department's hands, where they look at it more or less from a construction man's standpoint and seem to pay very little attention to all the work that has been done in the last 25 years in zoning and planning to try to upgrade the size of lots, the shape of lots, the character of buildings that go on these lots, I think that they are not giving proper consideration to the zoning aspects and the planning aspects. So I think there are two issues involved in this case, not just one in how you interpret the width, but I think there is a second issue and that is, is the Zoning and Planning Department of equal stature with the Building Department?

"Now, I have learned since becoming involved in this, that apparently it's quite unusual to make your appeals. It seems that as an actual practice, matter of fact, everything more or less stops with the Building and Safety Department. So in this case I don't feel that I'm being frivolous at all. I think I have a substantial legal point, and I think that if the Zoning and Planning Commission interprets the purpose and intent of the zoning and planning laws with the same forcefulness that the Building and Safety Department uses on whether you can construct a building or not, I think that the decision will be in my favor. Thank you."

The Chief Zoning Administrator then stated as follows:

"I'm not going to make a final decision on this matter today. There are some angles that I'd like to check with the City Attorney again. In my opinion it was not the intent of the zoning regulations that the ordinance be interpreted in this way. However, we frequently run on to situations where the ordinance, which was designed with the prevalent type of lot a rectangular or sometimes trapezoidal type lot in mind, is found to be difficult of application when we come up to some of the really odd-shaped lots that have been produced by the previous lack of any control over lot splits. We are trying to cure that situation now.

"The Council has ordered an ordinance drawn which will preclude splitting up of lots into two or more parcels without processing through the City Planning Department to give a little meaning to the word 'lot design' in the State Map Filing Law. But in the past we have had no good control over lot splitting, and if you think this is an odd-shaped lot, you should see some of the ones that have been created in the Hillside areas. And when you try to apply the definitions of the zoning ordinance to these odd-shaped lots, it's most difficult, and some



decision has had to be made on how this definition of measuring the lot width and lot depth apply, and the Building Department has come up with this interpretive ruling of how the lot depth and lot width is measured on these odd-shaped lots. I question that the interpretation which had to be devised for some of the odd-shaped Hillside lots should be applied in lots of this type, particularly lots which originally had rectangular shapes and are redivided with lines more or less at right angles to one another. But the ruling was devised as a general ruling and has been applied to this situation.

"And we are confronted with a problem where a builder has in good faith, apparently from the statements made, made all the inquiries possible as to what his rights were under the law in this type of lot, and after receiving that information, whether completely following the law, proceeded to draw plans, borrow money, get a building permit, and start construction. And it presents a real serious problem from both sides of the issue. I can't say that improvement considered as a total would be substandard in the meaning of any building code or building construction. I do question that this little narrow tip of the building could be considered standard under the intent of the zoning regulations which have purposely established 50 feet as the standard for widths of lots, so as to engender development of buildings that would not appear to be squeezed on a narrow substandard width of parcel. However, even on a standard lot, say take a standard 50-foot in width lot, there would be nothing to prevent a person from designing a building just like this to fit on the lot. However, it would have increased yards which would set it off and it wouldn't appear to be so densely occupying the particular piece of ground.

"I'd like to discuss the matter with the City Attorney on this question of interpretation and application. I just don't believe it was the intent the regulations be interpreted this way, but the zoning ordinance -- pardon me, I should say this, the City Charter by amendment transferred to the Department of Building and Safety the authority to administer and interpret the zoning regulations, and sometimes we don't entirely agree with the liberal interpretations we think are placed on some of these regulations. After all, that has been delegated to the Building Department by the Charter and by the zoning regulations, and we have found in some instances we have to go back and amend the regulations if we find that they are interpretations to particular situations, as such, that it's producing a result that was not intended by the original regulation. I frankly think this was not intended, and yet, there are definite questions as to whether it is actually prohibited under the regulations, and I'd like to check the issue with the City Attorney before we come up with a final decision. And we will notify each party.

"In the meantime, the builder is advised that in our opinion the provisions of the Charter which says, proceedings shall be stayed, meant that construction work should be stayed on an issue of this



type until the matter is resolved. And if you proceed with building on this particular section until we reach a decision, you are doing so at your own risk. We will endeavor to get a decision as soon as possible on this matter."

The Chief Zoning Administrator further advised that a written decision would be forwarded.

Reporter: Dixie King



April 10, 1957

Mr. Frank Malet  
2016 Cummings Drive  
Los Angeles 27, California

Re: Z. A. I. Case No. 1575  
Linwood Drive and  
Cummings Drive  
Laughlin Park Area

Dear Mr. Malet:

In response to your further communication of April 5, 1957 with respect to the above-entitled matter, please be advised that the height of a fence or wall along a side property line and back of the required front yard area is limited to a height of 6 ft. as measured from the natural ground level adjacent thereto. This regulation is contained in Section 12.22-C, 20 (f) of the Municipal Code. There is also a separate regulation of the Municipal Code not part of the Zoning Regulations called the "Spite Fence Ordinance" which prohibits party line fences or walls to exceed a height of 6 ft.

The Zoning Regulations with respect to the height of a fence or wall along a rear property line is a little confused because of the definition of "rear yard". If the rear lot line is within 25 ft. of the rear wall of the most rear main building, it would be part of the required rear yard and the same 6 ft. height limitation would apply. If it is beyond the required 25 ft. rear yard distance measured from the rear wall of the most rear building, then the City Attorney's Office has ruled that this is not part of the required rear yard and the regulations on fence and wall heights from a zoning standpoint do not apply.

In a required front yard area a fence or wall is limited to a height of not exceeding 3½ ft. above the natural ground level.

Very truly yours,

HUBER E. SMUTZ  
Zoning Administrator

HES:fh



ATTORNEY AT LAW  
2016 CUMMINGS DRIVE  
LOS ANGELES 27, CALIFORNIA  
CAPITOL 1-7047

April 5th, 1957

Office of Zoning Administrator,  
361 City Hall,  
Los Angeles 12, California

Attention: Huber E. Smutz

Re: Z.A.I. Case No. 1575  
Linwood Drive and  
Cummings Drive  
Laughlin Park Area

Gentlemen:

Thank you for your response to our inquiry in the above matter.

There is one further point that needs clearing up. Please advise what the present height limit is on a dividing fence or wall on the line between Lots 4 and 5, Tract 7964. It is our understanding that the present regulation is 6 feet from original grade of the property adjacent to the lot on which the fence is being constructed. Is this correct? Please cite regulation number and date of enactment.

We would also like to know what the regulation permits regarding fence height limits on the lines facing streets and the rear property lines of Lots 4 and 5.

Thank you for your assistance.

Yours truly,

  
Frank Malet

FM:AG

RECEIVED  
CITY OF LOS ANGELES

APR 8 1957

ZONING ADMINISTRATOR



April 3, 1957

Frank Malet  
2016 Cummings Drive  
Los Angeles 27, California

E. A. I. Case No. 1575  
Re: Linwood Drive and  
Cummings Drive  
Laughlin Park area

Dear Sir:

In response to your communication of March 25, 1957, please be advised that it would not be possible under the circumstances for the Zoning Administrator to classify Lots 4 and 5, Tract 7964, as in a hillside district. The fact is that these lots presently have a questionable status as far as the zoning regulations are concerned since they only have access by means of private streets, which private streets have never been approved by the City Planning Commission as adequate for purposes of access as required for a lot under the Zoning Ordinance, nor have the streets been approved as private streets under the Private Street Ordinance. Several of the private streets in the Laughlin Park area have been approved by the City Planning Commission but, as far as I can ascertain, the portions of Cummings Drive and Linwood Drive adjacent to the lots in question have not been so approved. Even if these streets were approved private streets this particular portion of Laughlin Park would not qualify for a hillside determination by the Zoning Administrator and any adjustment in yard spaces could only be considered by individual applications for zone variance.

I would suggest that you and your neighbors abutting Cummings Drive, Linwood Drive and the other private streets in this immediate area, apply to the City Planning Commission for approval of these streets as private streets. Information on procedure can be obtained from the Subdivision Section of the department, Room 260-A, City Hall.

Very truly yours,

HKS:frv

Huter E. Smith  
Zoning Administrator

cc: Bert Fuller

Department of Bldg. & Safety



44-10  
DM 7927

FRANK MALET  
ATTORNEY AT LAW  
2016 CUMMINGS DRIVE  
LOS ANGELES 27, CALIFORNIA  
CAPITOL 1-7047  
March 25th, 1957

Zoning Administrator,  
Room 361 - City Hall,  
Los Angeles, California

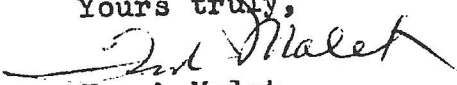
Gentlemen:

Please classify the following lots as hillside or other-  
wise for purposes of establishing code height and set-  
back limits for constructing a wall or fence on lot lines,  
front, rear and sides and also for the purpose of con-  
struction of a garage on either the front or side line.  
It is our understanding that the ordinance has been  
changed in the past six months so that there is no fur-  
ther distinction between hillside zones and otherwise.

Please advise and give code limits on the following:

Tract No. 7964, Lots 4 and 5 located near  
the corner of Linwood Drive and Cummings  
Drive, south of Los Feliz.

Yours truly,

  
Frank Malet

FM:AG

RECEIVED  
CITY OF LOS ANGELES  
MAR 26 1957  
ZONING ADMINISTRATOR



**Z. A. INTERPRETATION**

No. 1575

Frank Melet  
2016 brennings Dr.  
L.A. 27

CITY OF LOS ANGELES

RECORDS CENTER

**RECORDS WITHDRAWAL SLIP**

1 ORIGINAL - ATTACH TO DOCUMENT  
Ray Bunker 3851  
**DO NOT DETACH**  
11/20 1980  
7216  
DATE REMOVED

STORAGE LOCATION

RECORD DATE

RECORD

347-1575

TO:

DEPARTMENT:

ADDRESS:

MAIL STOP:

Gracie Muse EXT. 6689  
Planning  
500-6 CH  
395 No. 37168

ATTACH ATTACHED DOCUMENT IMMEDIATELY AFTER USE  
OFFICIAL ST. STOP 161

**CITY PLANNING DEPARTMENT**

**361 CITY HALL**



CITY OF LOS ANGELES  
CALIFORNIA

HUBER E. SMUTZ  
ZONING ADMINISTRATOR



NORRIS POULSON  
MAYOR

DEPARTMENT OF  
CITY PLANNING  
OFFICE OF THE  
ZONING ADMINISTRATOR

361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

May 21, 1959

*HES*

R. M. Shillito, General Manager  
Downtown Business Men's Association  
of Los Angeles  
417 South Hill Street  
Los Angeles 13, California

RE: L. A. I. CASE NO. 1684  
Open Display of  
Merchandise in Connection  
With Permitted Businesses  
Downtown District

Dear Mr. Shillito:

I have your communication of May 14, 1959, concerning the Downtown Cleanup Campaign of your organization and submitting questions concerning application of the zoning regulations to certain businesses and to a problem you have encountered in connection with displaying merchandise on sidewalks in front of stores or displaying and selling merchandise outside of store buildings. Incidentally, I have received your cleanup packet and have intended to write to you complimenting your organization upon the excellent cleanup program for the Downtown area. I have always been concerned with the sad appearance of some of our business districts and particularly some portions of the Downtown district and wish your organization success in this important campaign to remedy the situation.

With respect to the application of the zoning regulations to the subject in question, I can only give you my opinions on the matter and advise you that enforcement of the zoning regulations is the responsibility of the Department of Building and Safety working through the Prosecution Division of the City Attorney's Office. The City Attorney's Office is the ultimate authority on interpretation of the zoning regulations from an enforcement standpoint.

As you no doubt know, those parts of the Downtown district northerly of 4th Street and easterly of Bunker Hill are classified in the M2 Light Industrial Zone as is also the property easterly of the frontage on Hill Street and southerly of the frontage on Olympic Boulevard except for the frontage on both Broadway and Hill between Olympic Boulevard and 12th Street. The M2 Zone by specific provisions of the Zoning Ordinance permits use of the property for any purpose permitted in the more restrictive industrial and commercial zones,

"... whether conducted within or without a building or enclosed area . . ."

As the result of the provisions of the M2 Zone, I must inform you that there are no provisions of the zoning regulations which would preclude the display or sale of merchandise on open portions of any of the premises in the M2 zoned portion of the Downtown district.

The remainder of the so-called Downtown district, including the frontage referred to on Broadway and Hill as far south as 12th Street, is



classified in the C5 Zone. The regulations applying to the C5 Zone are more specific with respect to the subject under discussion since it permits all uses permitted in the C2 Zone,

" . . . provided that all regulations of said zone are complied with . . . "

We therefore have to refer back to the regulations applying to the C2 Zone and here we find a specific provision under Section 12.14-A, 1 (b) (3) stated as follows:

"In connection with the stores, shops or businesses listed under paragraph (a) all activities other than incidental storage, shall be conducted wholly within a completely enclosed building." (Underlining mine.)

The paragraph (a) referred to is the paragraph which lists certain permitted uses, including the usual retail and wholesale stores, shops and businesses found in the area together with some other uses. Another sub-section of the same section of the ordinance spells out the regulations concerning incidental open storage and limits it to a 3000 sq. ft. area on the rear half of the lot and completely enclosed with solid walls or fences at least 6 ft. in height. Hence these provisions of the ordinance, in my opinion, would clearly prohibit the retail and wholesale stores and businesses from displaying and selling merchandise on the open portion of the property, particularly on the front half of the lot or on privately owned sidewalk area in front of the buildings in the C5 Zone as well as all other "C" Zones and the "M" Zone.

There are other C2 Zone uses automatically permitted in the C5 Zone and which are not subject to the specific regulations mentioned above concerning conducting a business wholly within a completely enclosed building. These other uses are listed by specific naming in paragraphs 2 through 36 of Section 12.14-A of the Code. Included among these uses and which would have some bearing on the discussion, are such items as:

"21 - - Newsstand"

"22 - - Nursery, flower or plant . . ."

Since a newsstand and a nursery are thus not specifically regulated by the provisions of Section 12.21-A, 1 (b) (3) there might be difficulties from a zoning standpoint in preventing an open display and sale of magazines, pocket books, post cards and other similar items normally sold at a "newsstand". The City Attorney's Office might be able to draw a line between the open display of these items in connection with a strictly newsstand business and yet prevent such display in connection with a drug store or other regular business which was not limited to just that of a "newsstand". The same problem could arise in connection with the display of flowers since a nursery such as permitted could display and sell flowers, plants, shrubs, etc., in the open.

I must advise you that the present Comprehensive Zoning Ordinance as first adopted in June of 1946, did not contain the specific language which I have referred to above requiring certain retail businesses to be conducted wholly



within a completely enclosed building in the C2 - C5 Zones. However, the regulations since June of 1946 have always required that second hand stores be conducted wholly within a completely enclosed building. The present language concerning other types of retail or wholesale businesses was enacted by amendments under Ordinance 99,870, effective in June, 1952. Prior to that time there was some doubt with respect to these specific limitations and some uses within the C5 zoned portion of the Downtown district may have acquired a nonconforming status prior to the enactment of these amendments. However, it is my opinion that most of these uses have lost the nonconforming right which previously allowed them to continue and would now be operating in violation of the zoning regulations due to the specific language of Sections 12.23-C, 1 (a) and 12.21-D of the Code which combined require the discontinuance of the nonconforming use of land within five (5) years from the date it became nonconforming except where operated in connection with a nonconforming building.

I realize that the above discussion is necessarily somewhat technical and involved but it should provide you with some ammunition to present to the Zoning Enforcement Division of the Building Department and the City Attorney's Office in connection with enforcement of the zoning regulations against what in my opinion are many violations of zone in the Downtown area. I hope that the information will be of some assistance to you and others in connection with this cleanup program.

I am enclosing herewith that portion of the Zoning Ordinance dealing with commercial zones on which I have marked in red the pertinent sections discussed in this memorandum.

Very truly yours,

Huber E. Smutz  
Chief Zoning Administrator

HES:five  
Encl:

CC: Don Woodward

Department of Building and Safety

Phil Gray  
Criminal Division, City Attorney's Office

Branch Offices



CITY OF LOS ANGELES  
CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JACK BAUER  
CHARLES V. CADWALLADER  
ARTHUR DVORIN



NORRIS POULSON  
MAYOR

DEPARTMENT OF  
CITY PLANNING

OFFICE OF  
ZONING ADMINISTRATION

361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

March 20, 1961

Mr. Don Avalier  
% The Tahitian  
12010 Ventura Boulevard  
Studio City, California

RE: Z.A.I. Case No. 1772  
Open Air Dining and  
Dance Facilities -  
C2 Zone

Dear Mr. Avalier:

I have your communication of March 11, 1961, concerning the property which you leased at 12010 Ventura Boulevard and which extends through to Laurelwood Drive and which is the site of the Tahitian Restaurant with its automobile parking facilities. You inquire about the problems of establishing an open air type dining area with small dance floor for the conduct of private luau-type banquets in the area southwesterly of the restaurant building.

As you are aware only the Ventura Boulevard frontage portion of your leased property is classified in a C2-2 Commercial Zone with the remaining large southerly parking area classified in an R3P-1 Zone. Only that portion of your large Lot 1, Tract No. 11617 which is located northerly of a line extending from the second angle point along the westerly property line to the southwesterly corner of Lot 24, Tract No. 7497, is classified in the commercial zone. It is only a small portion of the proposed open luau area would be within the commercial zone. The C2 commercial zone which applies to this part of your property does permit the operation of a restaurant including a dance floor if proper permits are obtained from the Police Commission but only if all activities other than incidental storage are conducted wholly within a completely enclosed building. Even on the commercially zoned portion of the property an open dining facility or with dance floor activities could not be conducted in the open. The southerly R3-P zoned portion of your site may not be utilized for any commercial purpose other than the incidental automobile parking facilities.

The only manner in which the enterprise which you have in mind might be permitted would be in the event a formal application for zone variance were filed and the proper findings could be made to justify granting such a variance. We, of course, cannot express any opinion with respect to the possibilities of such a variance since if it is filed it would have to be scheduled for public hearing and both sides of the question heard with an unprejudiced mind. Obviously, one of the big questions concerning any such requested variance would be the encroachment of a commercial use into



the residential zone and the effect of the inescapable noise and music of the outdoor activity on the residentially zoned and occupied properties in the immediate vicinity.

For your assistance in the event you desire to file an application for zone variance, I am enclosing forms which would have to be used for this purpose and I would certainly advise discussing this matter with your immediate neighboring property owners along Laurelwood Drive before going to the trouble and expense of presenting such an application. Any further questions in connection with this matter might be the adequacy of the remaining automobile parking facilities for the expanded enterprise.

Yours very truly,

Huber E. Smutz  
Chief Zoning Administrator

HES:frp

CC-Branch Offices  
CC-Associate Zoning Administrators

Encl. -forms



CITY OF LOS ANGELES  
CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JACK BAUER  
CHARLES V. CADWALLADER  
ARTHUR DVORIN



NORRIS POULSON  
MAYOR

DEPARTMENT OF  
CITY PLANNING

OFFICE OF  
ZONING ADMINISTRATION

361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

SAMUEL WM. YORTY

August 18, 1961

Department of Building and Safety  
Room 217, City Hall

Walter C. Peterson  
City Clerk  
Room 195, City Hall

Re: S. A. I. CASE NO. 1808  
Dining Terraces or Outdoor  
Patios for Serving and  
Consuming Food and Refresh-  
ments in connection with  
Restaurants, Cafes, etc.  
C2 and Less Restrictive  
Zones

Greetings:

In the matter of the verbal request made by officials of the Department of Building and Safety and by several interested restaurant operators for an interpretation of the zoning regulations as they apply to the provision of dining terraces or outdoor eating patios in connection with restaurants, cafes, and other eating and refreshment establishments located in the C2 Zone, please be advised that the Chief Zoning Administrator has made the following interpretation and ruling that in the C2 or less restrictive zones it would be permissible to have dining terraces or outdoor eating patios for the serving and consuming of food and refreshment in connection with various eating and refreshment establishments, provided all other activities including any entertainment and dancing, other than incidental storage, are conducted wholly within a completely enclosed building.

INTERPRETATION AND RULING

There is some ambiguity, contradiction, and conflict between some of the provisions of the Comprehensive Zoning Ordinance as they concern activities of a restaurant, cafe, or other eating establishment when located in the C2 Zone, particularly as to the extent which food and refreshment may be served outside of buildings. No such conflict exists with respect to such establishments when located in the more restrictive C1 Zone since the limitations which apply to all commercial uses in said zone very clearly provide that "all activities are conducted wholly within an enclosed building." The C2 Zone, however, is somewhat ambiguous and open to interpretation on this particular point. Said C2 Zone in addition to permitting all C1 Zone uses subject to the limitation



that "all activities other than incidental storage shall be conducted wholly within a completely enclosed building" also provides in paragraph 14 of Section 12.14-A that there may be drive-in businesses which among other things includes refreshment stands, restaurants, and the like. In any such drive-in restaurant or refreshment stand persons are served food and refreshment while sitting in their automobiles. It is common practice in connection with many restaurants, eating establishments, and refreshment stands, particularly during the summer months in our salubrious climate, to provide tables either on dining terraces, outdoors, or under shade-covered patios where persons may be served their food and drink. Such activity would be little different than the serving of food and refreshment to persons seated in their cars in a drive-in restaurant facility and would be no more objectionable to the public welfare than some of the other open type of uses permitted in the C2 Zone, provided any entertainment and dancing is conducted wholly within a completely enclosed portion of the building. Other provisions of the C2 Zone clearly indicate the intent that all dancing and entertainment type of facilities other than the modern drive-in motion picture theater, be conducted within completely enclosed buildings. It is apparent that in most instances the conduct of open-air entertainment or dancing in connection with restaurant and cafe facilities would be a source of annoyance to occupants of adjacent premises, particularly residential and hotel developments.

Therefore, by virtue of authority contained in Section 12.21-A, 2 of the Municipal Code, it is hereby determined that restaurants, cafes, eating establishments, or refreshment stands with incidental dining terraces or outdoor eating patios for serving and consuming of food and refreshments would be similar to and no more objectionable than other uses permitted in the C2 Zone, provided all other activities including any entertainment and dancing, other than incidental storage, are conducted wholly within a completely enclosed building. Furthermore, the List of Uses Permitted in Various Zones adopted under T. A. I. Case No. 1350 is amended by inserting in its proper alphabetical order among the uses permitted in the C2 Zone, the following:

"Restaurant, Cafe, Eating Establishment or Refreshment Facility with incidental dining terrace or outdoor eating patio with tables for serving and consuming food or refreshments, provided all other activities including any entertainment and dancing, other than incidental storage, are conducted wholly within a completely enclosed building."

Very truly yours,

HUBER E. SMUTY  
Chief Zoning Administrator

HES:at

cc: Associate Zoning Administrators  
Branch Offices, Planning  
William Dove - c/o Tahitian Restaurant  
12010 Ventura Boulevard, Studio City



CITY OF LOS ANGELES  
INTERDEPARTMENTAL CORRESPONDENCE

DATE: October 17, 2001

TO: Department of City Planning, Office of Zoning Administration staff  
Department of Building and Safety, Plan Check and Inspection staff

FROM: Robert Janovici, Chief Zoning Administrator *RJ*  
Peter Kim, Zoning Engineer *PK*

SUBJECT: PARKING REQUIREMENTS FOR OUTDOOR EATING AREA

This is a clarification on the issue of parking requirements for "Outdoor Eating Areas." The Outdoor Eating Areas are addressed in ZAI 1808 (unroofed) and also in 12.03 (covered or uncovered) of the code. The two sets of regulations, with different definitions took effect at different time period and has caused a slight confusion in its enforcement.

Per ZAI 1808, Outdoor Eating Area is limited to area without any roof covering. By definition, any area without a roof results in no floor area. Since parking requirements for restaurants are based on floor area, it can easily be concluded that no additional parking is required.

On the other hand, Outdoor Eating Area, per definition in 12.03, allows roof coverings. Thus, it cannot follow the same logic as per ZAI 1808. However, the definition of floor area, in 12.21.1A5 states in part,

*"... floor area within a building...except...outdoor eating areas of ground floor restaurants."*

Therefore, as long as the Outdoor Eating Area (whether roofed or not) is for a ground floor restaurant, it is excluded from the floor area. Thus, once again, without any floor area, no parking is required.

Although the definition of floor area in 12.03 of the code is silent regarding the exclusion of Outdoor Eating Areas, it is confirmed that Outdoor Eating Areas were intentionally intended to be excluded from the floor area, thereby resulting in no additional parking. This interpretation has been confirmed by reviewing the original staff report for the Outdoor Eating Area code change ordinance.

Therefore, in the enforcement of this section, it has been determined that the parking requirements for the "outdoor eating area" are intentionally waived, both as per 12.03 of the Code and as per ZAI 1808.



**NOTICE**  
**INTERPRETATION AND RULING**  
**BY THE CHIEF ZONING**  
**ADMINISTRATOR**  
**RE: DINING TERRACES OR OUT-**  
**DOOR PATIOS FOR SERVING**  
**AND CONSUMING FOOD AND**  
**REFRESHMENTS IN CONNEC-**  
**TION WITH RESTAURANTS,**  
**CAFES, ETC.—C2 AND LESS**  
**RESTRICTIVE ZONES.**

There is some ambiguity, contradiction, and conflict between some of the provisions of the Comprehensive Zoning Ordinance as they concern activities of a restaurant, cafe, or other eating establishment when located in the C2 Zone, particularly as to the extent which food and refreshment may be served outside of buildings. No such conflict exists with respect to such establishments when located in the more restrictive C1 Zone since the limitations which apply to all commercial uses in said zone very clearly provide that "all activities are conducted wholly within an enclosed building." The C2 Zone, however, is somewhat ambiguous and open to interpretation on this particular point. Said C2 Zone in addition to permitting all C1 Zone uses subject to the limitation that "all activities other than incidental storage shall be conducted wholly within a completely enclosed building" also provides in paragraph 14 of Section 12.14-A that there may be drive-in businesses which among other things includes refreshment stands, restaurants, and the like. In any such drive-in restaurant or refreshment stand persons are served food and refreshment while sitting in their automobiles. It is common practice in connection with many restaurants, eating establishments, and refreshment stands, particularly during the summer months in our salubrious climate, to provide tables either on dining terraces, outdoors, or under shade-covered patios where persons may be served their food and drink. Such activity would be little different than the serving of food and refreshment to persons seated in their cars in a drive-in restaurant facility and would be no more objectionable to the public welfare than some of the other open type of uses permitted in the C2 Zone, provided any entertainment and dancing is conducted wholly within a completely enclosed portion of the building. Other provisions of the C2 Zone clearly indicate the intent that all dancing and entertainment type of facilities other than the modern drive-in motion picture theater, be conducted within completely enclosed buildings. It is apparent that in most instances the conduct of open-air entertainment or dancing in connection with restaurant and cafe facilities would be a source of annoyance to occupants of adjacent premises, particularly residential and hotel developments.

Therefore, by virtue of authority contained in Section 12.21-A, 2 of the Municipal Code, it is hereby determined that restaurants, cafes, eating establishments, or refreshment stands with incidental dining terraces or outdoor eating patios for serving and consuming of food and refreshments would be similar to and no more objectionable than other uses permitted in the C2 Zone, provided all other activities including any entertainment and dancing, other than incidental storage, are conducted wholly within a completely enclosed building. Furthermore, the List of Uses Permitted in Various Zones adopted under Z. A. I. Case No. 1350 is amended by inserting in C2 Zone, the following:

"Restaurant, Cafe, Eating Establishment or Refreshment Facility with incidental dining terrace, or outdoor eating patio with tables for serving and consuming food or refreshments, provided all other activities including any entertainment and dancing, other than incidental storage, are conducted wholly within a completely enclosed building."

Dated: August 21, 1961.

HUBER E. SMUTZ,  
Chief Zoning Administrator.

Z. A. I. Case No. 1808  
(1367379) Aug 25



## R E P O R T

Z. A. I. CASE NO. 1853-A

DATE: April 2, 1962

This appeal apparently challenges the manner in which the Department of Building and Safety determined the width and depth of an inverted L-shaped parcel which was created by joining a large rectangular key lot 100 by 363 ft. in dimension, and a substandard in width reversed corner parcel approximately 28 ft. by 135 ft. into one building site. The appeal has been filed by the owner of the first interior lot adjacent to the small reverse corner parcel which was sold as a freeway remnant.

The State Division of Highways contacted the Zoning Section of the Department of Building and Safety prior to the sale of the excess property to determine if said excess property could be attached to either adjoining lot to form a legal building site. The Department of Building and Safety ruled that the excess property could be legally attached to either of the adjoining parcels. As a result of this determination both owners were permitted to bid for the purchase of the excess property. Had the excess property been usable by only one of the adjoining property owners the State would then have sold the property by negotiation with the single property owner. The excess property was ultimately acquired by the owner of the key lot who joined the two parcels together to form an inverted L-shaped lot.

The manner in which the lot depth and width was determined followed a procedure of long standing in the Building Department, in which the lot depth is considered as a horizontal distance between the center of the narrow street frontage and the center of the rear lot line. This lot depth is, in this manner, said to be measured in the mean direction of the side lot lines which in the case of an inverted L-shaped lot takes into consideration the fact that one portion of the side lot line is parallel to the street frontage. The lot width then is measured perpendicular to this lot depth line at its midpoint which results in a width measured askew to the street frontage.

In conversation with the appellant it was found that he felt the lot depth should be measured perpendicular to the front lot line which in the instant case would result in a substandard in width parcel and as such an illegal building site.

The applicant filed a written objection to the issuance of a building permit on the subject property on February 27, 1962.



On March 7, 1962 Building Permit Nos. LA 4446, 47 and 48 were issued for the construction of a 32 unit apartment house and two garage structures. On March 13, 1962 the Board of Building and Safety ruled that the above permits were properly issued in compliance with the zoning regulations. The Department of Building and Safety's ruling of March 13 was appealed to the Zoning Administrator on March 23.

Construction work is underway at the present time notwithstanding the appeal on file with the Zoning Administrator. The Investigator was informed by the Secretary of the Board of Building and Safety that the Department had ruled that the construction work may proceed ~~while~~<sup>is</sup> the appeal being processed.

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Ray W. Bundick  
City Planning Assoc.

RWB:sh  
4-2-62



**CITY OF LOS ANGELES**  
CALIFORNIA

**MEMBERS**  
JOHN L. REX  
CHAIRMAN  
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ROGER S. HUTCHINSON

ROY T. DAVIS  
SECRETARY



SAMUEL WM. YORTY  
MAYOR

*off*  
**BOARD OF**  
**ZONING APPEALS**  
ROOM 361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

July 6, 1962 *Grant*

Mr. John F. Costello  
11015 Aqua Vista Street  
North Hollywood, California

B. Z. A. Case No. 1290  
Z. A. I. Case No. 1853-A  
11013 Aqua Vista Street  
North Hollywood District

Mr. John E. Roberts  
Director of Planning

Mr. Huber E. Smutz  
Chief Zoning Administrator

Department of Building and Safety

**Greetings:**

The Board of Zoning Appeals at its regular meetings of June 12 and June 26, 1962, considered the appeal of John F. Costello from the determination of the Chief Zoning Administrator in Z. A. I. Case No. 1853-A, in dismissing his appeal from the action of the Building and Safety Commission for denying his protest against the issuance of a building permit for part of an apartment house projecting onto the 28 ft. in width portion of an L-shaped lot. The property is located in the R3 Zone at the northwest corner of Aqua Vista Street and Vineland Avenue, North Hollywood district. The Administrator's action also upheld the Department of Building and Safety in having issued the permit for said apartment house building (Permit No. LA 4446-62).

The Board conducted public hearings on the above dates and also reviewed the information contained in the Zoning Administration file, the Notice of Appeal and the report of the Chief Zoning Administrator in answer thereto, and inspected the property involved.

After thorough consideration of the various aspects of this matter, it was the Board's opinion that the appeal was properly before this office, since, the appellant in good faith relied on a responsible officer's statement, "that he would have ten days to file an appeal with a Zoning Administrator from the date the Building and Safety Commission ruled on the matter." Records indicate the appeal was filed within the prescribed period and as such, was "timely". The Board of Zoning Appeals, therefore, did not concur in the Chief Zoning Administrator's dismissal of the appeal for lack of jurisdiction and considered the appeal and its various aspects; the reports and documents attached to



the file and the statements made at the hearing before the Board of Zoning Appeals on the above-mentioned dates, also, as it relates to this matter, the long-standing interpretive rule of the Department of Building and Safety which is followed in determining the width of an irregular odd-shaped type of lot and which first requires determining the depth of a lot under the definition rule of, "measured in the mean direction of the side lot lines".

This appeal in effect challenges the manner in which the Department of Building and Safety determines the width and depth of odd-shaped lots such as here involved.

It was the Board's opinion that since this is strictly a department policy of the Building Department, it is not properly within the purview of the Board of Zoning Appeals to question a long-established and apparently well-considered "interpretive rule", and if facts indicate that a change in such method should be effected, that such a request should be presented to the Department of Building and Safety and Board of Building and Safety Commission for review and for any change they may deem proper.

The Board of Zoning Appeals, therefore, by virtue of the authority contained in Section 99 of the City Charter and Section 12.28 of the Municipal Code, granted the appeal from the determination of the Chief Zoning Administrator in Z. A. I. Case No. 1853-A, dated April 18, 1962, insofar as dismissing the appeal for lack of jurisdiction regarding the matter, but did, however, sustain the Department of Building and Safety for the issuance of Building Permit No. LA 4446-62, dated March 7, 1962, and also sustained the action of the Board of Building and Safety Commission in its action under Board File No. 620674, dated March 15, 1962.

Very truly yours,

*Roy T. Davis*  
Roy T. Davis  
Secretary

RTD:at

cc: Board of Building and Safety Commission  
Attention: Mr. A. J. Lund  
Room 212, City Hall

Mr. and Mrs. Edward Katz  
c/o Mr. Alfred March, Architect  
9851 West Pico Boulevard  
Los Angeles 35



# CITY OF LOS ANGELES

CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JACK BAUER  
CHARLES V. CADWALLADER  
ARTHUR DVORIN



SAMUEL WM. YORTY  
MAYOR

DEPARTMENT OF  
CITY PLANNING

OFFICE OF  
ZONING ADMINISTRATION

361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

April 18, 1962

John F. Costello  
11015 Aqua Vista Street  
North Hollywood, California

Board of Building and Safety  
Commissioners  
Attn.: A. J. Lund, Secretary  
Room 212, City Hall

Mr. and Mrs. Edward Katz  
c/o Alfred March, Architect  
9851 West Pico Boulevard  
Los Angeles, California

Re: Z. A. I. CASE NO. 1853-A  
Appeal of John F. Costello  
from Ruling of the Board of  
Building and Safety Commis-  
sioners  
Board File No. 620674  
11013 Aqua Vista Street  
North Hollywood

Greetings:

In the matter of the appeal of John F. Costello from the action of the Board of Building and Safety Commissioners under Board File No. 620674 which denied his protest against the issuance of a building permit for part of an apartment house projecting onto the 28 ft. in width portion of an "L" shaped lot located in the R3 Zone at the northwesterly corner of Aqua Vista Street and Vineland Avenue, North Hollywood, and which action also upheld the Department of Building and Safety in having issued the permit for said apartment house building (Permit LA 4446-62), please be advised that the Chief Zoning Administrator has dismissed the appeal for lack of jurisdiction. The appeal is not properly before this Office since it was not filed within ten days from the date the building permit was issued but within ten days from the date of action of the Board denying appellant's protest against the issuance of the permit.

After thorough consideration of the reports and documents attached to the file and the statements made at the hearing before the Chief Zoning Administrator on April 10, 1962, the Administrator reviewed various City Attorney's Opinions and discussed this matter with an Assistant City Attorney. Although the Chief Zoning Administrator questions the advisability of this type of procedure, the facts show that despite the pendency of the appellant's protest to the Board of Building and Safety Commissioners, the questioned building permit LA 4446-62 was issued on March 7, 1962. Subsequently on March 15, 1962, the Board of Building and Safety Commissioners considered a report of its staff concerning the



appellant's protest and advising that the building permit had been issued on March 7, 1962, after plans had been checked and found to comply with all building and zoning ordinances. The action of the Board taken on said March 15, 1962, merely upheld the staff recommendation concerning advice to the appellant that the building permit had been issued and denied his protest against such issuance. There would still have been time for the appellant to have filed an appeal from the issuance of the building permit. This was not done within the prescribed ten-day period and the building permit became final. The appeal actually filed was from the action of the Board of Building and Safety Commissioners which was essentially an action of an informative nature and simply confirming that which had theretofore occurred. It is not at all clear why a building permit was issued while a formal protest was pending before the Board concerning a debatable interpretation of the zoning regulations upon which legal issuance of the building permit hinges.

The City Attorney, in several Opinions to the Department of City Planning, all hold that there must be some finality to the actions of administrative boards or administrative officials, and that once an action has been taken on a particular matter and no appeal filed within the prescribed time limits, that the action becomes final. These Opinions and particularly Z. A. Opinions Nos. 374 and 427½ (issued August 10, 1956), also hold that the ten-day appeal period involved in this type of matter is jurisdictional and that if an appeal is not properly filed within the ten-day period, the Administrator has no jurisdiction to consider the matter and the appeal should be dismissed. In view of these circumstances, the Chief Zoning Administrator has no alternative in the instant case than to dismiss the appeal and has no jurisdiction to now consider the merits of the appellant's contention.

#### COMMENT

The Chief Zoning Administrator is familiar with the long-standing interpretive rule of the Department of Building and Safety which is followed in determining the width of an irregular odd-shaped type of lot and which first requires determining the depth of a lot under the definition rule of "measured in the mean direction of the side lot lines". This ruling and formula utilized by the Building Department for many years, although occasionally resulting in an unintended type of development such as here in question, on the other hand has actually prevented utilization of other types of created odd-shaped lots which would be far less noticeable (see Z. A. I. Case No. 1796-A) and has also solved the puzzling question of interpretation to hundreds of other odd-shaped parcels.

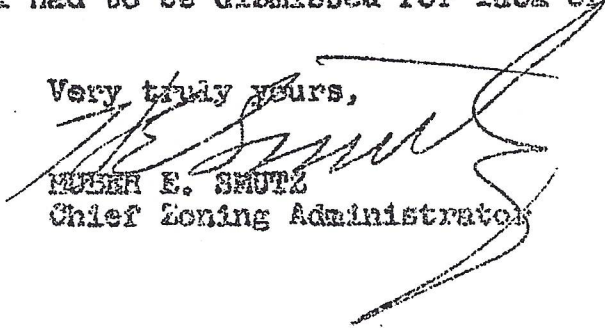
It is the Chief Zoning Administrator's personal opinion that it was never the intent of the zoning regulations that the definitions of lot depth and lot width would be applied in such a manner as to permit the creation of a lot such as here involved utilizing a created substandard in width fractional portion of a record lot fronting one street as a part of the main body of the parcel consisting of a record lot fronting an entirely different street perpendicular to that of the one the fractional lot fronts and where the original record lots were of normal rectangular shape.



It is apparent to this Administrator that it was never the intent of the Comprehensive Zoning Regulations which specify minimum lot widths for residential lots, that a created 28 ft. in width parcel fronting a street where all the existing developments are on lots having widths equal to or greater than the required minimum 50 ft. width, could be utilized for construction and maintenance of a wing of a dwelling and particularly an 18 ft. in width two-story wing of an apartment house such as here involved. If an appeal had been filed within the prescribed time limit from the adoption of the original interpretive rule or from its application to this particular situation where the mean lot depth line actually falls outside the confines of the lot for a good portion of its length, the Chief Zoning Administrator might have found that there was abuse of discretion in applying the formulated rule to this particular building site. Although it cannot help the appellant in this instance, the Chief Zoning Administrator hereby suggests to the Department of Building and Safety and Board of Building and Safety Commissioners that they review the interpretive rule as applied to this type of situation and adopt a modification which would prevent a recurrence of this same problem. It is suggested that the interpretive rule might be modified so that the mean lot depth line perpendicular to which the lot width is measured, should in every instance be a straight line which falls entirely within the confining lines of the lot and not running outside the lot lines as in this instance.

It should be here noted that in the case at point the builder of the apartment house in good faith and prior to acquiring the 28 ft. fractional parcel and adding it to his larger lot made inquiries and was advised by the Department of Building and Safety of the long standing rule in determining lot widths, that under said rule the created total lot would conform, and that the apartment building as planned would meet all the regulations of the applicable R3-1 Zone. Based upon this information, final plans for the building were drawn, loans were obtained, a building permit was issued and the building is now under construction. Unfortunately for the appellant, he did not file his notice of appeal within ten days from the date of the issuance of the building permit and the appeal had to be dismissed for lack of jurisdiction.

Very truly yours,

  
HUBERT E. SMUTZ

Chief Zoning Administrator

HKS:gt

cc: Alfred March, Architect  
9851 West Pico Boulevard  
Los Angeles



**CITY OF LOS ANGELES**  
CALIFORNIA

**MEMBERS**

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CHAIRMAN

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SAMUEL WM. YORTY  
MAYOR

**BOARD OF  
ZONING APPEALS**

ROOM 361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

July 6, 1962

Mr. John F. Costello  
11015 Aqua Vista Street  
North Hollywood, California

B. Z. A. Case No. 1290  
Z. A. I. Case No. 1853-A  
11013 Aqua Vista Street  
North Hollywood District

Mr. John E. Roberts  
Director of Planning

Mr. Huber E. Smutz  
Chief Zoning Administrator

Department of Building and Safety

**Greetings:**

The Board of Zoning Appeals at its regular meetings of June 12 and June 26, 1962, considered the appeal of John F. Costello from the determination of the Chief Zoning Administrator in Z. A. I. Case No. 1853-A, in dismissing his appeal from the action of the Building and Safety Commission for denying his protest against the issuance of a building permit for part of an apartment house projecting onto the 28 ft. in width portion of an L-shaped lot. The property is located in the R3 Zone at the northwest corner of Aqua Vista Street and Vineland Avenue, North Hollywood district. The Administrator's action also upheld the Department of Building and Safety in having issued the permit for said apartment house building (Permit No. LA 4446-62).

The Board conducted public hearings on the above dates and also reviewed the information contained in the Zoning Administration file, the Notice of Appeal and the report of the Chief Zoning Administrator in answer thereto, and inspected the property involved.

After thorough consideration of the various aspects of this matter, it was the Board's opinion that the appeal was properly before this office, since, the appellant in good faith relied on a responsible officer's statement, "that he would have ten days to file an appeal with a Zoning Administrator from the date the Building and Safety Commission ruled on the matter." Records indicate the appeal was filed within the prescribed period and as such, was "timely". The Board of Zoning Appeals, therefore, did not concur in the Chief Zoning Administrator's dismissal of the appeal for lack of jurisdiction and considered the appeal and its various aspects; the reports and documents attached to



the file and the statements made at the hearing before the Board of Zoning Appeals on the above-mentioned dates, also, as it relates to this matter, the long-standing interpretive rule of the Department of Building and Safety which is followed in determining the width of an irregular odd-shaped type of lot and which first requires determining the depth of a lot under the definition rule of, "measured in the mean direction of the side lot lines".

This appeal in effect challenges the manner in which the Department of Building and Safety determines the width and depth of odd-shaped lots such as here involved.

It was the Board's opinion that since this is strictly a department policy of the Building Department, it is not properly within the purview of the Board of Zoning Appeals to question a long-established and apparently well-considered "interpretive rule", and if facts indicate that a change in such method should be effected, that such a request should be presented to the Department of Building and Safety and Board of Building and Safety Commission for review and for any change they may deem proper.

The Board of Zoning Appeals, therefore, by virtue of the authority contained in Section 99 of the City Charter and Section 12.28 of the Municipal Code, granted the appeal from the determination of the Chief Zoning Administrator in Z. A. I. Case No. 1853-A, dated April 18, 1962, insofar as dismissing the appeal for lack of jurisdiction regarding the matter, but did, however, sustain the Department of Building and Safety for the issuance of Building Permit No. LA 4446-62, dated March 7, 1962, and also sustained the action of the Board of Building and Safety Commission in its action under Board File No. 620674, dated March 15, 1962.

Very truly yours,

*Roy T. Davis*  
Roy T. Davis  
Secretary

RTD:at

cc: Board of Building and Safety Commission  
Attention: Mr. A. J. Lund  
Room 212, City Hall

Mr. and Mrs. Edward Katz  
c/o Mr. Alfred March, Architect  
9851 West Pico Boulevard  
Los Angeles 35



CITY OF LOS ANGELES  
CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

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JACK BAUER  
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SAMUEL WM. YORTY  
MAYOR

DEPARTMENT OF  
CITY PLANNING

OFFICE OF  
ZONING ADMINISTRATION

361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

April 30, 1962

Honorable Board of Zoning Appeals  
City of Los Angeles  
Los Angeles, California

Re: B. Z. A. CASE NO. 1290  
Appeal of John F.  
Costello  
Z. A. I. CASE NO. 1853-A  
Ruling of the Board of  
Building and Safety  
Commissioners  
Board File No. 620674  
11013 Aqua Vista St.  
North Hollywood

Gentlemen:

I transmit herewith for your consideration and determination the Notice of Appeal filed by John F. Costello from my action of April 18, 1962, under the above-entitled case number dismissing his appeal from the action of the Board of Building and Safety Commissioners under Board File No. 620674 which denied his protest against the issuance of a building permit for part of an apartment house projecting onto the 28 ft. in width portion of an "L" shaped lot located in the R3 Zone at the northwesterly corner of Aqua Vista Street and Vineland Avenue, North Hollywood, and which action also upheld the Department of Building and Safety in having issued the permit for said apartment house building (Permit LA 4446-62). Accompanying the Notice of Appeal you will find a copy of the report of the City Planning Associate analyzing this particular matter, and my determination dismissing the appeal. The transcript of the hearing conducted with reference to this matter on April 10, 1962, has not as yet been prepared but will be forwarded as soon as completed.

The only matter actually before the Board in connection with this appeal is as to whether the Chief Zoning Administrator erred in dismissing Mr. Costello's appeal from the action of the Board of Building and Safety Commissioners and not deciding the appeal on its merits. The appellant has filed some points and authorities which go into certain legalistic approaches and actually contends that there was a denial of due process of law in not considering his appeal on its merits. It is only rarely that we have an appeal from an action taken by the Department of Building and Safety or Board of Building and Safety Commissioners, and in this instance there was grave question in the Zoning Administrator's mind as to whether Mr. Costello's original appeal



was timely and whether this office had jurisdiction. As a result, the entire matter was verbally discussed with Assistant City Attorney Hilker. After a thorough review of the matter and the actions of the Department of Building and Safety and Board of Building and Safety Commissioners, Mr. Hilker verbally advised me that Mr. Costello's appeal to this Office was not timely and that we had no jurisdiction to consider the merits of the appeal but would have to dismiss it for lack of jurisdiction. The determination explains the reason for this dismissal action.

We have no written City Attorney's Opinion on this particular type of issue, and in view of the points and authorities quoted in the appeal, it might be your desire to obtain a written opinion on the issue of jurisdiction from the City Attorney. In the verbal opinion, albeit the Assistant City Attorney as well as the Chief Zoning Administrator were concerned over the procedure by which a building permit was issued while a formal protest was pending before the Board of Building and Safety Commissioners questioning the legality of such a permit, Mr. Hilker clearly pointed out to the Administrator that there was no requirement in the Code for the answering of protests against the issuance of a building permit or for notifying a protesting adjoining property owner of the issuance of a building permit, and that in this particular type of case the only appealable issue was the actual issuance of the building permit and that the appeal was not taken within the prescribed ten-day period after the building permit was actually issued.

In my opinion, the contention of the appellant in paragraph A of his points and authorities is based upon an incorrect premise. In this paragraph he infers that he was appealing from an action of the Board of Building and Safety Commissioners in either granting a "slight modification" of the yard area requirements or determining the application of the regulations to a lot of a peculiar shape or location under authority of Section 12.26-B of the Code. This was not the case. The records of the Department of Building and Safety, including the attached copy of excerpt from the minutes of the Board meeting of March 15, 1962, clearly show that the Board did not act upon any request for a "slight modification" or for an interpretation of the regulations. It merely considered the protest of Mr. Costello, reviewed the report of its departmental staff and then approved the recommendation in the staff report that Mr. Costello be transmitted the information concerning the prior issuance of the building permit which the departmental check had found to comply with all building and zoning ordinances. The rule which the department had applied in this instance to determine whether the created lot had the required minimum width is one which it has used for many years and which had to be devised as an interpretation of the zoning regulations in order to carry out its administrative and enforcement duties. The City Attorney, in an opinion rendered to the Superintendent of Building and dated November 19, 1953, has pointed out the authority of and necessity for the Department of Building and Safety to initially



interpret and determine the application of the zoning regulations to the facts of a particular case as part of its administrative and enforcement duties.

In the appellant's paragraph B he relates some circumstances surrounding this matter and states that the secretary of the Board advised him that he had ten days from the action of the Board within which to appeal the matter. Unfortunately, based now upon the verbal ruling of the City Attorney, this information was incorrect. We can readily understand how the incorrect statement was given but that does not help the appellant's cause.

The remaining arguments contained in appellant's paragraph B and in paragraph C are legal points which the Administrator is not qualified to answer and may need analysis by the City Attorney.

My comments in connection with the determination of dismissal reflect my personal opinion concerning the intent of the zoning regulations as applied to the particular created lot in question. However, as pointed out earlier, this is not the issue before your Honorable Board. If the original appeal was not timely and this office had no jurisdiction to consider the same, then, of course, the Board has no authority to consider the same. I agree with the verbal opinion of the City Attorney, and therefore urge that you deny the appeal in this instance and sustain the Administrator's dismissal of the matter for lack of jurisdiction. If there are any questions concerning the matter, a written opinion should be obtained from the City Attorney.

Very truly yours,

HUBER E. SMUTZ  
Chief Zoning Administrator

HES:at



# CITY OF LOS ANGELES

CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JACK BAUER  
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MAYOR

DEPARTMENT OF  
CITY PLANNING

OFFICE OF  
ZONING ADMINISTRATION

361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

April 18, 1962

John P. Costello  
11015 Agua Vista Street  
North Hollywood, California

Board of Building and Safety  
Commissioners  
Attn.: A. J. Lund, Secretary  
Room 212, City Hall

Mr. and Mrs. Edward Katz  
c/o Alfred March, Architect  
9851 West Pico Boulevard  
Los Angeles, California

Re: L. A. I. CASE NO. 1853-1  
Appeal of John P. Costello  
from Ruling of the Board of  
Building and Safety Commis-  
sioners  
Board File No. 620674  
11013 Agua Vista Street  
North Hollywood

Greetings:

In the matter of the appeal of John P. Costello from the action of the Board of Building and Safety Commissioners under Board File No. 620674 which denied his protest against the issuance of a building permit for part of an apartment house projecting onto the 28 ft. in width portion of an "L" shaped lot located in the SE Zone at the northwesterly corner of Agua Vista Street and Vineland Avenue, North Hollywood, and which action also upheld the Department of Building and Safety in having issued the permit for said apartment house building (Permit LA 4445-62), please be advised that the Chief Zoning Administrator has dismissed the appeal for lack of jurisdiction. The appeal is not properly before this Office since it was not filed within ten days from the date the building permit was issued but within ten days from the date of action of the Board denying appellant's protest against the issuance of the permit.

After thorough consideration of the reports and documents attached to the file and the statements made at the hearing before the Chief Zoning Administrator on April 10, 1962, the Administrator reviewed various City Attorney's Opinions and discussed this matter with an Assistant City Attorney. Although the Chief Zoning Administrator questions the advisability of this type of procedure, the facts show that despite the pendency of the appellant's protest to the Board of Building and Safety Commissioners, the questioned building permit LA 4445-62 was issued on March 7, 1962. Subsequently on March 15, 1962, the Board of Building and Safety Commissioners considered a report of its staff concerning the



appellant's protest and advising that the building permit had been issued on March 7, 1962, after plans had been checked and found to comply with all building and zoning ordinances. The action of the Board taken on said March 15, 1962, merely upheld the staff recommendation concerning advice to the appellant that the building permit had been issued and denied his protest against such issuance. There would still have been time for the appellant to have filed an appeal from the issuance of the building permit. This was not done within the prescribed ten-day period and the building permit became final. The appeal actually filed was from the action of the Board of Building and Safety Commissioners which was essentially an action of an informative nature and simply confirming that which had theretofore occurred. It is not at all clear why a building permit was issued while a formal protest was pending before the Board concerning a debatable interpretation of the zoning regulations upon which legal issuance of the building permit hinges.

The City Attorney, in several Opinions to the Department of City Planning, all held that there must be some finality to the actions of administrative boards or administrative officials, and that once an action has been taken on a particular matter and no appeal filed within the prescribed time limits, that the action becomes final. These Opinions and particularly Z. A. Opinions Nos. 374 and 427 $\frac{1}{2}$  (issued August 10, 1956), also held that the ten-day appeal period involved in this type of matter is jurisdictional and that if an appeal is not properly filed within the ten-day period, the Administrator has no jurisdiction to consider the matter and the appeal should be dismissed. In view of these circumstances, the Chief Zoning Administrator has no alternative in the instant case than to dismiss the appeal and has no jurisdiction to now consider the merits of the appellant's contention.

#### COMMENT

The Chief Zoning Administrator is familiar with the long-standing interpretive rule of the Department of Building and Safety which is followed in determining the width of an irregular odd-shaped type of lot and which first requires determining the depth of a lot under the definition rule of "measured in the mean direction of the side lot lines". This ruling and formula utilized by the Building Department for many years, although occasionally resulting in an unintended type of development such as here in question, on the other hand has actually prevented utilization of other types of created odd-shaped lots which would be far less noticeable (see Z. A. I. Case No. 1796-A) and has also solved the puzzling question of interpretation of hundreds of other odd-shaped parcels.

It is the Chief Zoning Administrator's personal opinion that it was never the intent of the zoning regulations that the definitions of lot depth and lot width would be applied in such a manner as to permit the creation of a lot such as here involved utilizing a created substandard in width fractional portion of a record lot fronting one street as a part of the main body of the parcel consisting of a record lot fronting an entirely different street perpendicular to that of the one the fractional lot fronts and where the original record lots were of normal rectangular shape.



It is apparent to this Administrator that it was never the intent of the Comprehensive Zoning Regulations which specify minimum lot widths for residential lots, that a created 26 ft. in width parcel fronting a street where all the existing developments are on lots having widths equal to or greater than the required minimum 50 ft. width, could be utilized for construction and maintenance of a wing of a dwelling and particularly an 18 ft. in width two-story wing of an apartment house such as here involved. If an appeal had been filed within the prescribed time limit from the adoption of the original interpretive rule or from its application to this particular situation where the mean lot depth line actually falls outside the confines of the lot for a good portion of its length, the Chief Zoning Administrator might have found that there was abuse of discretion in applying the formulated rule to this particular building site. Although it cannot help the appellant in this instance, the Chief Zoning Administrator hereby suggests to the Department of Building and Safety and Board of Building and Safety Commissioners that they review the interpretive rule as applied to this type of situation and adopt a modification which would prevent a recurrence of this same problem. It is suggested that the interpretive rule might be modified so that the mean lot depth line perpendicular to which the lot width is measured, should in every instance be a straight line which falls entirely within the confining lines of the lot and not running outside the lot lines as in this instance.

It should be here noted that in the case at point the builder of the apartment house in good faith and prior to acquiring the 26 ft. fractional parcel and adding it to his larger lot made inquiries and was advised by the Department of Building and Safety of the long standing rule in determining lot widths, that under said rule the created total lot would conform, and that the apartment building as planned would meet all the regulations of the applicable R3-1 Zone. Based upon this information, final plans for the building were drawn, loans were obtained, a building permit was issued and the building is now under construction. Unfortunately for the appellant, he did not file his notice of appeal within ten days from the date of the issuance of the building permit and the appeal had to be dismissed for lack of jurisdiction.

Very truly yours,

HUGH E. SMITH  
Chief Zoning Administrator

HEE:at

cc: Alfred March, Architect  
9851 West Pico Boulevard  
Los Angeles



**CITY OF LOS ANGELES**  
CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS  
JACK BAUER  
CHARLES V. CADWALLADER  
ARTHUR DVORIN



SAMUEL WM. YORTY  
MAYOR

DEPARTMENT OF  
CITY PLANNING

OFFICE OF  
ZONING ADMINISTRATION

361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

April 30, 1962

Honorable Board of Zoning Appeals  
City of Los Angeles  
Los Angeles, California

Re: B. Z. A. CASE NO. 1290  
Appeal of John F.  
Costello  
Z. A. I. CASE NO. 1853-A  
Ruling of the Board of  
Building and Safety  
Commissioners  
Board File No. 620674  
11013 Aqua Vista St.  
North Hollywood

Gentlemen:

I transmit herewith for your consideration and determination the Notice of Appeal filed by John F. Costello from my action of April 18, 1962, under the above-entitled case number dismissing his appeal from the action of the Board of Building and Safety Commissioners under Board File No. 620674 which denied his protest against the issuance of a building permit for part of an apartment house projecting onto the 28 ft. in width portion of an "L" shaped lot located in the R3 Zone at the northwesterly corner of Aqua Vista Street and Vineland Avenue, North Hollywood, and which action also upheld the Department of Building and Safety in having issued the permit for said apartment house building (Permit LA 4446-62). Accompanying the Notice of Appeal you will find a copy of the report of the City Planning Associate analyzing this particular matter, and my determination dismissing the appeal. The transcript of the hearing conducted with reference to this matter on April 10, 1962, has not as yet been prepared but will be forwarded as soon as completed.

The only matter actually before the Board in connection with this appeal is as to whether the Chief Zoning Administrator erred in dismissing Mr. Costello's appeal from the action of the Board of Building and Safety Commissioners and not deciding the appeal on its merits. The appellant has filed some points and authorities which go into certain legalistic approaches and actually contends that there was a denial of due process of law in not considering his appeal on its merits. It is only rarely that we have an appeal from an action taken by the Department of Building and Safety or Board of Building and Safety Commissioners, and in this instance there was grave question in the Zoning Administrator's mind as to whether Mr. Costello's original appeal



was timely and whether this office had jurisdiction. As a result, the entire matter was verbally discussed with Assistant City Attorney Hilker. After a thorough review of the matter and the actions of the Department of Building and Safety and Board of Building and Safety Commissioners, Mr. Hilker verbally advised me that Mr. Costello's appeal to this Office was not timely and that we had no jurisdiction to consider the merits of the appeal but would have to dismiss it for lack of jurisdiction. The determination explains the reason for this dismissal action.

We have no written City Attorney's Opinion on this particular type of issue, and in view of the points and authorities quoted in the appeal, it might be your desire to obtain a written opinion on the issue of jurisdiction from the City Attorney. In the verbal opinion, albeit the Assistant City Attorney as well as the Chief Zoning Administrator were concerned over the procedure by which a building permit was issued while a formal protest was pending before the Board of Building and Safety Commissioners questioning the legality of such a permit, Mr. Hilker clearly pointed out to the Administrator that there was no requirement in the Code for the answering of protests against the issuance of a building permit or for notifying a protesting adjoining property owner of the issuance of a building permit, and that in this particular type of case the only appealable issue was the actual issuance of the building permit and that the appeal was not taken within the prescribed ten-day period after the building permit was actually issued.

In my opinion, the contention of the appellant in paragraph A of his points and authorities is based upon an incorrect premise. In this paragraph he infers that he was appealing from an action of the Board of Building and Safety Commissioners in either granting a "slight modification" of the yard area requirements or determining the application of the regulations to a lot of a peculiar shape or location under authority of Section 12.26-B of the Code. This was not the case. The records of the Department of Building and Safety, including the attached copy of excerpt from the minutes of the Board meeting of March 15, 1962, clearly show that the Board did not act upon any request for a "slight modification" or for an interpretation of the regulations. It merely considered the protest of Mr. Costello, reviewed the report of its departmental staff and then approved the recommendation in the staff report that Mr. Costello be transmitted the information concerning the prior issuance of the building permit which the departmental check had found to comply with all building and zoning ordinances. The rule which the department had applied in this instance to determine whether the created lot had the required minimum width is one which it has used for many years and which had to be devised as an interpretation of the zoning regulations in order to carry out its administrative and enforcement duties. The City Attorney, in an opinion rendered to the Superintendent of Building and dated November 19, 1953, has pointed out the authority of and necessity for the Department of Building and Safety to initially



interpret and determine the application of the zoning regulations to the facts of a particular case as part of its administrative and enforcement duties.

In the appellant's paragraph B he relates some circumstances surrounding this matter and states that the secretary of the Board advised him that he had ten days from the action of the Board within which to appeal the matter. Unfortunately, based now upon the verbal ruling of the City Attorney, this information was incorrect. We can readily understand how the incorrect statement was given but that does not help the appellant's cause.

The remaining arguments contained in appellant's paragraph B and in paragraph C are legal points which the Administrator is not qualified to answer and may need analysis by the City Attorney.

My comments in connection with the determination of dismissal reflect my personal opinion concerning the intent of the zoning regulations as applied to the particular created lot in question. However, as pointed out earlier, this is not the issue before your Honorable Board. If the original appeal was not timely and this office had no jurisdiction to consider the same, then, of course, the Board has no authority to consider the same. I agree with the verbal opinion of the City Attorney, and therefore urge that you deny the appeal in this instance and sustain the Administrator's dismissal of the matter for lack of jurisdiction. If there are any questions concerning the matter, a written opinion should be obtained from the City Attorney.

Very truly yours,



HUBERT E. SMUTZ  
Chief Zoning Administrator

HES:at



**CITY OF LOS ANGELES**  
CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS  
JACK BAUER  
CHARLES V. CADWALLADER  
ARTHUR DVORIN



SAMUEL WM. YORTY  
MAYOR

April 26, 1962

DEPARTMENT OF  
CITY PLANNING

OFFICE OF  
ZONING ADMINISTRATION

361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

Board of Building and Safety  
Commissioners  
Attn.: A. J. Lund, Secretary  
Room 212, City Hall

RE: Z. A. I. CASE NO. 1853-A  
11013 Aqua Vista Street  
North Hollywood

Mr. and Mrs. Edward Katz  
c/o Alfred March, Architect  
9851 West Pico Boulevard  
Los Angeles 35, California

**Greetings:**

This is to advise you that a Notice of Appeal has been filed by John P. Costello with the Board of Zoning Appeals from the determination of the Chief Zoning Administrator dismissing the Appeal for lack of jurisdiction.

The filing of this Notice of Appeal stays all proceedings in connection with said case until a determination is made by the Board of Zoning Appeals. You will be notified by said Board when the matter will be heard and considered by it.

Very truly yours,

Huber E. Smutz  
Chief Zoning Administrator

cc

cc: Alfred March, Architect  
9851 West Pico Boulevard  
Los Angeles 35, California



*Reporters Copy*

April 5, 1962

John F. Costello  
11015 Aqua Vista St.  
North Hollywood, California

Mr. and Mrs. Edward Katz  
c/o Alfred March, Architect  
9831 W. Pico Boulevard  
Los Angeles, California

Mr. A. J. Lund, Secretary  
Board of Building and  
Safety Commissioners  
Room 212, City Hall

RE: Z. A. L. CASE NO. 1853-A  
Appeal of John F. Costello from  
the Board of Building and Safety  
Commissioners Ruling (Board File  
No. 620674) concerning apartment  
house at N.W.'ly corner Aqua Vista  
St. and Vineland Avenue  
North Hollywood

Greetings:

This is to advise you that the appeal of John F. Costello from a ruling of the Department of Building and Safety and the Board of Building and Safety Commissioners concerning the apartment house under building permit LA 1446/62 at the N.W. corner of Aqua Vista Street and Vineland Avenue, with address of 11013 Aqua Vista Street, will be considered by a Zoning Administrator on Tuesday, April 10, 1962, at 9:30 a.m. in the Hearing Room, 361-A, Third Floor, of the Los Angeles City Hall, at which time you should be present or represented.

Very truly yours,

  
HUBERT E. SMUTZ  
Chief Zoning Administrator

HES:lg  
cc: Alfred March, Architect  
9831 W. Pico Boulevard  
Los Angeles, California



Z. A. I. CASE NO. 1853-A

Chief Zoning Administrator, Huber E. Smutz, conducted a hearing on the appeal filed by John F. Costello in the above Z. A. I. case on April 10, 1962, at 9:30 A.M., in Room 361-A, Downtown City Hall, Los Angeles, California.

APPEARANCES:

John F. Costello, Appellant  
11015 Aqua Vista  
North Hollywood

Edward Katz, Applicant  
454 Oakhurst Drive  
Beverly Hills

Alfred March, Architect for applicant  
9831 West Pico  
Los Angeles

IN REBUTTAL:

John F. Costello  
11015 Aqua Vista  
North Hollywood

DISPOSITION:

"I'm not going to make a final decision on this matter today. There are some angles that I'd like to check with the City Attorney again. In my opinion it was not the intent of the zoning regulations that the ordinance be interpreted in this way. However, we frequently run on to situations where the ordinance, which was designed with the prevalent type of lot a rectangular, sometimes trapezoidal type lot in mind, is found to be difficult of application when we come up to some of the really odd shaped lots that have been produced by the previous lack of any control over lot splits. We are trying to cure that situation now.

"The Council has ordered an ordinance drawn which will preclude splitting up of lots into two or more parcels without processing through the City Planning Department to give a little meaning to the word "lot design" in the State Map Filing Law. But in the past we have had no good control over



lot splitting, and if you think this is an odd-shaped lot, you should see some of the ones that have been created in the Hillside areas. And when you try to apply the definitions of the zoning ordinance to these odd-shaped lots, it's most difficult, and some decision has had to be made on how this definition of measuring the lot width and lot depth apply, and the Building Department has come up with this interpretive ruling of how the lot depth and lot width is measured on these odd-shaped lots. I question that the interpretation which had to be devised for some of the odd-shaped Hillside lots should be applied in lots of this type, particularly lots which originally had rectangular shapes and are redivided with lines more or less at right angles to one another. But the ruling was devised as a general ruling and has been applied to this situation.

"And we are confronted with a problem where a builder has in good faith apparently from the statements made, made all the inquiries possible as to what his rights were under the law in this type of lot, and after receiving that information, whether completely following the law, proceeded to draw plans, borrow money, get a building permit and start construction. And it presents a real serious problem from both sides of the issue. I can't say that improvement considered as a total would be substandard in the meaning of any building code or building construction. I do question that this little narrow tip of the building could be considered standard under the intent of the zoning regulations which have purposely established 50 feet as the standard for widths of lots, so as to engender development of buildings that would not appear to be squeezed on a narrow substandard width of parcel. However, even on a standard lot, say take a standard 50-foot in width lot, there would be nothing to prevent a person from designing a building just like this to fit on the lot. However, it would have increased yards which would set it off and it wouldn't appear to be so densely occupying the particular piece of ground.

"I'd like to discuss the matter with the City Attorney on this question of interpretation and application. I just don't believe it was the intent the regulations be interpreted this way, but the zoning ordinance -- pardon me, I should say this, the City Charter by amendment transferred to the Department of Building and Safety the authority to administer and interpret the zoning regulations, and sometimes we don't entirely agree with the liberal interpretations we think are placed on some of these regulations. After all that has been delegated to the Building Department by the Charter and by the zoning regulations, and we have found in some instances



we have to go back and amend the regulations if we find that they are interpretations to particular situations, as such, that it's producing a result that was not intended by the original regulation. I frankly think this was not intended, and yet, there are definite questions as to whether it is actually prohibited under the regulations, and I'd like to check the issue with the City Attorney before we come up with a final decision. And we will notify each party. In the meantime, the builder is advised that in our opinion the provisions of the Charter which says, proceeding shall be stayed, meant that construction work should be stayed on an issue of this type until the matter is resolved. And if you proceed with building on this particular section until we reach a decision, you are doing so at your own risk. We will endeavor to get a decision as soon as possible on this matter."

The Chief Zoning Administrator further advised that a written decision would be forwarded.

Reporter: Dixie King



August 1, 1962

Mr. R. Noel Hatch  
c/o Iverson and Hogoboom  
458 South Spring Street  
Los Angeles 13, California

Re: Z. A. I. Case No. 1892  
Interpretation of term  
"Solid wall or fence"  
Sec. 12.18-A, 3

Dear Mr. Hatch:

I have your communication of July 27, 1962, requesting an interpretation or our opinion concerning the meaning of the term "or within an area enclosed on all sides with a solid wall or fence not less than 6 ft. in height" as used in Section 12.18-A, 3 of the Comprehensive Zoning Regulations. The question has arisen with respect to the Contractors Crane and Rigging Company storage and repair yard at 11609 Cantara Street, Sun Valley district. Apparently it is your contention that the word "solid" only modifies the word "wall" and not the word "fence", and that a chain link wire fence could serve as the required enclosing fixture. I thoroughly disagree with your contention but must advise you that this type of question is one which should first be taken up with the Department of Building and Safety since said Department is charged with the responsibility for enforcing the zoning regulations and for the initial administration thereof concerning interpretations of this type. I will give you my opinion of the interpretation of this provision which of course at this stage would not be binding upon the Department of Building and Safety.

There is no question in my mind or others in this department concerning the intent of the regulation in question which was to require these types of open land uses to be enclosed behind a solid type enclosure, and that the adjective "solid" modified both the words "wall" and "fence". There would certainly be no logic to a regulation which required a solid wall but permitted an open chain link wire or other type of open fence as such an enclosing fixture. I call your attention to the fact that there are many places in the zoning regulations where there are adjectives qualifying two or more words or terms which follow. I also call your attention to Section 11.01 of the Municipal Code concerning definitions and interpretations which apply to all provisions of the Code and particularly to "use of words and phrases" in subparagraph (b) of that section. The following are a few of the places in the Comprehensive Zoning Ordinance where an adjective modifies two or more following terms or phrases with comments to show why it was clearly the intent of the legislative body to



have the adjective modify all the following terms:

In subsection A, 2 of Sections 12.05, 12.06, and 12.07 the term "nonprofit libraries and museums" is listed as permissible uses. It is obvious that the term "nonprofit" modify both "libraries" and "museums" as profit-making museums would constitute a commercial use incompatible with other uses permitted in these zones and in no way comparable to "churches".

In Section 12.12.2-A, 2 (a) 2.1 referring to permitted uses in the CR Zone it is obvious that in the term "professional or scientific school or college (classroom or lecture instruction only)" that the term "professional or scientific" modifies both the words "school" and "college".

Section 12.14-A, 42 concerning the extent and regulation of incidental open storage of materials and equipment in the C2 Zones in subparagraph (c) requires the permitted open storage area to be completely enclosed "by a solid wall or fence". This provision for open storage in a commercial zone where most uses are required to be conducted "wholly within a completely enclosed building" was written in as a liberalizing amendment to the original ordinance but with specific intent that any of the permitted open storage area would not be visible to passersby on adjacent public streets or those at ground level on adjacent premises. This is further borne out by the provisions of subparagraph (d) which prohibits storage of material or equipment to a height greater than that of the wall or fence. If, as you contend, the word "solid" did not modify the word "fence" and an open type fence were used what reason would there be for the regulations of said (d) since the material could be seen through the fence. Also, in this same section note that subparagraph (b) the term "power driven" was intended to modify both "excavating or road building equipment".

In Section 12.17.1-A, 2 (a) (4) the word "scientific" qualifies both the terms "instrument and equipment manufacturing". This qualification is obvious since the CM Zone is limited to very light types of manufacturing and any other interpretation of this provision would permit manufacturing of heavy equipment which by other provisions of the ordinance are relegated to either the M2 or M3 Zones.

In Section 12.17.1-A, 4 (b) you will again note the use of the term "solid wall or fence" and I refer you to the discussion above concerning Section 12.14-A, 42.

In Section 12.21-A, 6 (b) note the terms "ornamental fence or wall" and "compact eugenia or other evergreen hedge". It is obviously the intent of these terms that the adjectives "ornamental" and "compact" modify both the terms which follow.



The above expresses my firm opinion concerning this matter but again I suggest you discuss the situation further with the Department of Building and Safety.

Very truly yours,

HUBER E. SMUTZ  
Chief Zoning Administrator

HES:at

cc: Department of Building and Safety

Investigations Division  
Department of Building and Safety  
Room 1605, City Hall

Branch Offices, Planning

City Planning Associates

Associate Zoning Administrators

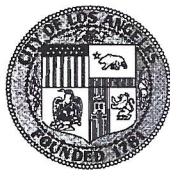


LINN K. WYATT  
ACTING CHIEF ZONING ADMINISTRATOR

**ASSOCIATE ZONING ADMINISTRATORS**

R. NICOLAS BROWN  
SUE CHANG  
LOURDES GREEN  
MAYA E. ZAITZEVSKY

**CITY OF LOS ANGELES**  
CALIFORNIA



ANTONIO R. VILLARAIGOSA  
MAYOR

**DEPARTMENT OF  
CITY PLANNING**

MICHAEL J. LOGRANDE  
DIRECTOR

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200 N. SPRING STREET, 7<sup>TH</sup> FLOOR  
LOS ANGELES, CA 90012  
(213) 978-1318  
FAX: (213) 978-1334  
[www.planning.lacity.org](http://www.planning.lacity.org)

October 7, 2010

Public Counters  
Department of Building and Safety  
All Interested Parties

**CASE NO. ZA 2010-2714(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

Section 12.70-B,8 of the Los Angeles  
Municipal Code – Massage Parlors

**CITYWIDE**

A massage therapist, bodyworker, bodywork therapist or massage and bodywork therapist, or any other practitioner who is licensed by the State of California pursuant to Sections 4600-4620 as amended by SB 371, of the California Business and Professions Code and other applicable regulations, is a "similar professional person" for the purpose of interpreting the definition of "Massage Parlor" set forth in Section 12.70-B,8 of the Los Angeles Municipal Code (LAMC). Accordingly, if treatments or manipulations of the human body are provided by such licensed practitioners, then the Massage Parlor is not an Adult Entertainment Business, as defined in LAMC Section 12.70-B,17, and therefore it is not subject to the adult entertainment regulations set forth in LAMC Section 12.70.

Section 12.21-A, 2 of the Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

**Discussion**

LAMC Section 12.70-B,8 defines a "Massage Parlor", in part, as follows:

8. **"Massage Parlor"** – An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or



similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the State of California.

Any establishment that meets the definition of a Massage Parlor is also defined as an Adult Entertainment Business, as set forth in Section 12.70-B,17 of the Los Angeles Municipal Code, and therefore is subject to all distance, permitting, and other provisions regulating adult entertainment, as set forth in LAMC Section 12.70.

Sections 4600-4620 of California Business And Professions Code, amended by SB 371 provide the following definitions: (c) "Massage therapist", "bodyworker", "bodywork therapist" or "massage and bodywork therapist" means a person who is certified by the Massage Therapy Organization under subdivision (c) of Section 4601 and who administers massage for compensation. And, (d) "Massage practitioner", "bodywork practitioner", or "massage and bodywork practitioner" means a person who is certified by the Massage Therapy Organization under subdivision (b) of Section 4601 and who administers massage for compensation.

These state regulations establish that massage therapists, bodyworkers, bodywork therapists and massage and bodywork therapists are all healing arts professionals that provide health-related services that have purposes and effects similar to those that are also provided by medical practitioners, chiropractors, acupuncturists and physical therapists. Accordingly, if a Massage Parlor provides treatments or manipulations of the human body through the services

### **Determination**

Accordingly, I hereby determine that:

A massage therapist, bodyworker, bodywork therapist or massage and bodywork therapist, or any other practitioner who is licensed by the State of California pursuant to Sections 4600-4620 as amended by SB 371, of the California Business and Professions Code and other applicable regulations, is a "similar professional person" for the purpose of interpreting the definition of "Massage Parlor" set forth in Section 12.70-B,8 of the Los Angeles Municipal Code (LAMC). Accordingly, if treatments or manipulations of the human body are provided by such licensed practitioners, then the Massage Parlor is not an Adult Entertainment Business, as defined in LAMC Section 12.70-B,17, and therefore it is not subject to the adult entertainment regulations set forth in LAMC Section 12.70.

### **APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after October 22, 2010, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the



Department of City Planning on or before the above date or the appeal will not be accepted. Forms are available on-line at <http://planning.lacity.org>. Public offices are located at:

Figueroa Plaza  
201 North Figueroa Street,  
4th Floor  
Los Angeles, CA 90012  
(213) 482-7077

Marvin Braude San Fernando  
Valley Constituent Service Center  
6262 Van Nuys Boulevard, Room 251  
Van Nuys, CA 91401  
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.



LINNY WYATT  
Acting Chief Zoning Administrator  
Direct Telephone No.: (213) 978-1318

LKW:AB:Imc



LINN K. WYATT  
CHIEF ZONING ADMINISTRATOR

**ASSOCIATE ZONING ADMINISTRATORS**

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April 13, 2012

**Interested Parties**

Department of Building and Safety

CASE NO. ZA 2012-0773(ZAI)

ZONING ADMINISTRATOR'S

INTERPRETATION

Section 12.22-C,20(f) of the Los Angeles  
Municipal Code - Fences and Walls in  
The A and R Zones

SITE SPECIFIC - 50 Park Initiative

Pursuant to Los Angeles Municipal Code Section 12.21-A,2, I hereby APPROVE:

the construction, use, and maintenance of maximum 8-foot in height fences, pilasters, and gates including light fixtures, within the required front yard, side yard or rear yard setback, solely in association with those City-owned properties developed for use as public "pocket parks", governed by the Department of Recreation and Parks and identified specifically under the 50 Park Initiative, in the A and R Zones.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator – The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

**Background**

The Department of Recreation and Parks, in concert with the Mayor's office, is actively promoting the development of neighborhood "pocket parks" via the "50 Park Initiative." The purpose of the 50 Park Initiative is to substantially increase the number of parks and facilities available in underserved communities across the City, with a specific focus on densely populated neighborhoods that lack sufficient open space and recreational opportunities.



The Department of Recreation and Parks proposed use of perimeter fences in the pocket park design schemes is necessary to protect both the safety and public health of community stakeholders, as well as the physical integrity of the actual park facilities, including play equipment, landscaping, and infrastructure. The fence, pilasters, gates, and any fixtures, will not exceed 8 feet in height, allowing for a visual connection between the park environment and adjoining neighborhood, while protecting the park from potential unfavorable elements or access by unauthorized parties when not in operation.

The perimeter fences will be constructed primarily of wrought iron and masonry pilasters, although other similar non-opaque materials may be used. The fence will function effectively as a physical deterrent yet be visually attractive in character and contribute to the aesthetic qualities of the park and surrounding neighborhood.

The Los Angeles Municipal Code limits the height of front yard fences to three and a half feet, as stated below.

Section 12.22-C,20(f) of the Code states as follows, in part:

**(f) Fences and Walls in the A and R Zones.**

(1) **Fences and Walls.** For the purposes of Article 2 through 6 of this chapter, the terms "**fence**" and "**wall**" shall include latticework, ornamental fences, screen walls, hedges or thick growths of shrubs or trees. Fence and wall height shall be measured from the natural ground level adjacent thereto.

(2) **Front Yards.** In the R Zones, fences, walls, and landscape architectural features of guard railing around depressed ramps, not more than three and one-half feet in height above the natural ground level adjacent to the feature, railing or ramp, may be located and maintained in any required front yard. In the A Zones (including the RA Zone), a fence or wall not more than six feet in height may be located and maintained in the required front yard. In both the A and R Zones, a fence or wall not more than eight feet in height may be located and maintained in the required front yard when authorized by a Zoning Administrator pursuant to Section 12.24-X,7.

In both the A and R Zones, an unobstructed chain link fence not more than ten feet in height may be located and maintained in all yards when required by the Department of Building and Safety pursuant to the provisions of Sections 91.3303 and 91.6103 and Division 89 of Article 1 of Chapter X of this Code.

(3) **Side Yards, Rear Yards and Other Spaces.** A fence or wall not more than eight feet in height may be located and maintained within the required side yard, rear yard or other open space of any lot in an RW Zone and within the required side yard, rear yard or other open space of a lot within any other A or R Zone which is 40 feet or more in width, provided the lot is not located within the boundary of a "Hillside Area", as defined in Section 91.7003 of this Code.

A fence or wall not more than six feet in height may be located and maintained within the required side yard, rear yard or other open space or any lot in



an A or R Zone, other than an RW Zone, which is less than 40 feet in width or which is located within the boundary of a "Hillside Area", as defined in Section 91.7003 of this Code, except that in either case a fence or wall not more than eight feet in height may be located in the yards or other open space when authorized by a Zoning Administrator pursuant to Section 12.21-A,2.

In the A Zones (including the RA Zone) a fence or wall not more than eight feet in height may be located on the side street lot line of any reversed corner lot; provided, however, that if the lot is located within the boundary of a "Hillside Area", as defined in Section 91.7003, the fence or wall shall not exceed six feet in height.

In the R Zones, other than the RW Zones, a fence or wall located within five feet of the side street lot line of a reversed corner lot may not exceed three and one-half feet in height. In the RW Zones, a fence or wall located within three feet of the side street lot line of either a corner lot or a reversed corner lot may not exceed three and one-half feet in height.

Section 12.24-X, 7 of the Los Angeles Municipal Code states in part:

"Fences or Walls in A or R Zones. A Zoning Administrator may, upon application, permit fences, walls or gates not to exceed eight feet in height, including light fixtures, in the required front yard, side yard or rear yard of any lot or on the side lot line along the street of a reversed corner lot in the A and R Zones...."

### **Interpretation**

The over-in-height perimeter fencing associated with the proposed pocket parks would not be permitted without relief from current Code limitations. While park facilities owned and operated by a government agency are generally permitted by-right in the A and R Zones, over-in-height fencing within front yard and some side yard setbacks on A and R zoned properties generally requires relief from the Code provisions via an approval by the Zoning Administrator.

Allowing perimeter fencing up to a maximum 8 feet in height for those A- and R-zoned park properties, expressly improved for use as park land under the 50 Park Initiative, would be consistent with the open space zoning provisions established for City-owned public park lands within the authority of the Department of Recreation and Parks, as well as with prior Planning Department determinations concerning OS-zoned property expressly designated for recreation and park purposes (i.e., consistent with provisions of Section 12.04.05, Open Space Zone).

The fences, pilasters, gates, and fixtures will be designed to be integrated within the new park landscape and environs, provide a desirable function and benefit to the immediate neighborhood, while allowing for access, light air circulation, and substantial views of the interior areas of the proposed pocket parks. It is noted that the Department of Recreation and Parks will prepare an environmental assessment for each individual candidate "pocket park" site to address proposed design features, including that of perimeter fencing, and their potential affect and compatibility with adjoining properties and surrounding neighborhood.



As the majority of these projects will be located in residential zones, adequately securing and protecting these pocket parks with fences higher than three and one-half feet is considered to be in the best interest of the immediate surrounding neighborhoods, and ultimately beneficial for the City as a whole. Pursuant to the authority granted in Section 12.21-A,2 and Section 12.24-X,7 of the Los Angeles Municipal Code, the Zoning Administrator finds that the additional fence height permitted to a maximum eight feet in the A and R Zones for the pocket parks within jurisdiction of the City's Department of Recreation and Parks is desirable to the public convenience and welfare and necessary to accomplish the objectives and purpose of the 50 Park Initiative.

This interpretation shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.

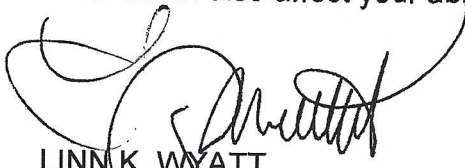
#### **APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after APRIL 30, 2012, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://cityplanning.lacity.org>**. Public offices are located at:

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If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.



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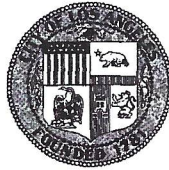


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December 20, 2012

Public Counters  
Department of Building and Safety  
All Interested Parties

**CASE NO. ZA 2012-2885(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

Section 12.17.5 of the Los Angeles  
Municipal Code – "MR1 RESTRICTED  
INDUSTRIAL ZONE and Section 12.18 of  
the Los Angeles Municipal Code – "MR2"  
RESTRICTED LIGHT INDUSTRIAL ZONE

**CITYWIDE**

Any use not specifically permitted in the MR Zones as set forth in Sections 12.17.5 and 12.18 of the Los Angeles Municipal Code may be permitted if: (1) the use is consistent with the purpose of the MR1 or MR2 Zone, as stated in Sections 12.17.5-A and 12.18-A of the Code; (2) the use is similar to and no more objectionable to the public welfare than the other uses permitted by right in the MR Zones, pursuant to Sections 12.21-A,2 of the Code; and (3) the use is not or will not become obnoxious or offensive by reason or emission of odor, dust, smoke, noise, gas, fumes, cinders, vibration, refuse matter or water-carried waste, pursuant to Section 12.17.5-B,6 of the Code.

Section 12.21-A.2 of the Code provides in pertinent part:

2. Other Use and Yard Determinations by the Zoning Administrator. The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.

**Background**

Prior to 1974, virtually all commercial uses were permitted in the Industrial Zones, which at that time consisted of M1, M2, and M3. Throughout the years, retail and other commercial businesses began to proliferate in these zones. In order to protect land for light manufacturing uses, the MR Zones were created in 1974. The MR Zones differ from other M Zones in that they prohibit, with a few exceptions, commercial uses.



The purpose section and land use list for the MR1 and MR2 Zones were amended in 1994 to allow light industrial land uses that were growing in popularity. These included high technology manufacturing, research and development, computer facilities, and corporate businesses. The principal purpose of the MR Zones, "to protect industrial land for industrial use and prohibit unrelated commercial and other non-residential uses", was not altered. Instead, the purpose of the MR Zones was broadened to include the following:

To preserve industrial land for light industrial uses and non-retail businesses which will enhance the City's employment base.

To reflect and accommodate the shift in industrial land uses from traditional industrial activity to uses such as those involving record management, research and development, information processing, electronic technology, and medical research.

While these amendments expanded the applicability of the MR Zones, the Department of City Planning has still had to issue site-specific variances and ZAls in order to bridge the gap between the intent of the zone and the enumerated uses.

The City therefore recognizes that a citywide clarification of the permitted uses in the MR Zones is necessary in order to accommodate evolving industrial practices that are in concert with the intent of the MR Zones.

### **Determination**

To determine whether a particular use is permitted in the MR Zones, a three-part test is required. This test, as well as the following use list, is derived from previously issued Zoning Administrator cases<sup>1</sup>. One, the use must be consistent with the purpose of the MR Zone. Two, the use must be similar to and no more objectionable to the public welfare than the other uses permitted by right in the MR Zone. And three, the use may not be or become obnoxious or offensive by reason or emission of odor, dust, smoke, noise, gas, fumes, cinders, vibration, refuse matter or water-carried waste. Operational standards related to electricity and safety is suited to the discretion of other departments. Therefore, the limitations listed per Section 12.17.1 A, 2(b)(3) and (4) are not applicable.

The following uses pass the three-part test and thus are permitted within the MR Zones. This list does not represent all uses that pass the three-part test.

1. Aerospace/defense company. This use is similar to an industrial or industrial engineering firm.
2. Biotechnology research and development. Computer technology and development. Health services - laboratory or Research and Development - excluding walk-in retail. Renewable energy research and development. These uses are similar to a laboratory or Research and Development center.

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<sup>1</sup> See Case Nos. ZA 2007-1101(ZAI) and ZA 2009-1091(ZV).



3. Renewable energy material manufacturing. This use is similar to electrical equipment manufacturing.
4. Digital processing/development. Software programming. These uses are similar to facilities for the development and/or production and manufacture of computer and media-related products and services, including hardware.
5. Entertainment production. This use is similar to motion picture, television, video and other media production, with outdoor sets.
6. Food processing office. This use is similar to an office building used only for offices of industrial firms or industrial engineering firms.
7. Insurance company data processing center. Data-bank. These uses are similar to record-keeping and computer support facilities for the processing of retrievable information and systems control.
8. Non-retail mortgage industry services. This use is similar to a bank.
9. Financial services-records and management. Storage records and management. These uses are permitted if for record-keeping and computer support facilities for the processing of retrievable information and systems control.
10. Pharmaceuticals - excluding walk-in retail. This use is permitted if consistent with Section 12.17.5-B,4(a): "the manufacturing, compounding, processing or treating of such products as drugs, pharmaceuticals, and perfumed toilet soap (no refining or rendering of fats or oils)"
11. Professional services firm/consulting firm/administrative services firm that utilize a minimum of 5,000 square feet of floor area. These uses are permitted if needed by industries in the area.
12. Mobile technology company. Telecommunications. These uses are permitted if for corporate headquarters or for record-keeping and computer support facilities for the processing of retrievable information and systems control.
13. Internet/catalog sales office. This use supports one of the purposes of the MR Zones, "to preserve industrial land for light industrial uses and non-retail businesses which will enhance the City's employment base."
14. Call center. This use supports one of the purposes of the MR Zones, "to preserve industrial land for light industrial uses and non-retail businesses which will enhance the City's employment base."
15. Law firm that utilizes a minimum of 5,000 square feet of floor area. This use supports one of the purposes of the MR Zones, "to preserve industrial land for light industrial uses and non-retail businesses which will enhance the City's employment base."



16. Government office. This use supports one of the purposes of the MR Zones, "to preserve industrial land for light industrial uses and non-retail businesses which will enhance the City's employment base."
17. Real estate development firm that utilizes a minimum of 5,000 square feet of floor area. This use supports one of the purposes of the MR Zones, "to preserve industrial land for light industrial uses and non-retail businesses which will enhance the City's employment base."
18. Uses contained within the Standard Industrial Classification Code for Finance, Insurance and Real Estate ("SIC Code- FIRE") which include the following major groups provided that any use in Major Groups 63, 64, or 65 shall utilize more than 5,000 square feet of floor area:
  - a) Major Group 60: Depository Institutions
  - b) Major Group 61: Non-Depository Credit institutions
  - c) Major Group 62: Security and Commodity Brokers, Dealers, Exchanges and Services
  - d) Major Group 63: Insurance Carriers
  - e) Major Group 64: Insurance Agents, Brokers, and Service
  - f) Major Group 65: Real Estate
  - g) Major Group 67: Holding and Other Investment Offices

This use supports one of the purposes of the MR Zones, "to preserve industrial land for light industrial uses and non-retail businesses which will enhance the City's employment base."

In addition, it is clarified that any uses currently permitted in the MR Zones pursuant to Sections 12.7.5 and 12.18 of the Code shall continue to be permitted.

This interpretation shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.

#### **APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after JANUARY 4, 2013, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:



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October 30, 2013

Public Counters  
Department of Building and Safety  
All Interested Parties

**CASE NO. ZA 2013-3104(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

Section 12.14-A, 1(a)(3) of the Los  
Angeles Municipal Code – Pet Shops

**CITYWIDE**

This Zoning Administrator's Interpretation (ZAI) establishes that the definition of kennels, as set forth in Los Angeles Municipal Code (LAMC) Section 12.03, excludes pet shops, as first permitted in the C2 Zone, that are lawfully permitted by the Department of Animal Services as provided in LAMC Section 53.00.

Section 12.21-A, 2 of the Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

**Background**

A pet shop is a by-right use in the C2 Zone and is not defined in Section 12.03 of the Zoning Code. Therefore, there is no specified limit in the LAMC as to the number of or age of animals allowed in a pet shop. A kennel is defined in the LAMC Section 12.03, as "Any lot or premises on which four (4) or more dogs, at least four (4) months of age, are kept." While kennels generally board, train and/or breed dogs, pet shops are retail businesses open to the public that sell pet supplies and animals.

Effective December 17, 2012, Ordinance 182,309 banned pet shops from selling commercially bred dogs, cats, and rabbits. However, the Ordinance states that pet shops



may sell any live dog if the dog was obtained from an animal shelter or a humane society located in the City of Los Angeles, or a non-profit rescue and humane organization registered with the Department of Animal Services. This Ordinance supports the City's attempt to lower the shelter animal euthanasia rate and raise the adoption rate of shelter animals.

Allowing pet shops to sell four (4) or more dogs expressly acquired from a City-authorized agency is part of the City's ongoing effort to relieve the number of animals housed in shelters and reduce the percentage of animals being euthanized.

The General Manager of the Department of Animal Services requested the Planning Department to clarify the Zoning Code's regulations on pet shops and kennels. Pursuant to this ZAI, differentiating kennels from pet shops clarifies that pet shops operating by-right, in zones where they are permitted, are allowed to sell four (4) or more dogs of any age if the pet shop is lawfully permitted by the Department of Animal Services.

#### **Determination**

Based on the foregoing, I hereby determine that the definition of kennels, as set forth in LAMC Section 12.03, excludes pet shops, as first permitted in the C2 Zone, that are lawfully permitted by the Department of Animal Services, as provided in LAMC Section 53.00. As such, the limitations applicable to the number of or age of dogs allowed in kennels do not apply to pet shops (as first permitted in the C2 Zone) operating expressly in compliance with LAMC Section 53.00.

This interpretation shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.

#### **APPEAL PERIOD – EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after **NOVEMBER 14, 2013**, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

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September 18, 2014

Public Counters  
Department of Building and Safety  
Other Interested Parties

CASE NO. ZA 2014-3398(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Section 12.24-T,3(b) of the Los Angeles Municipal Code – Vesting Conditional Use Applications and 12.24-U,7 of the Los Angeles Municipal Code – Conditional Use Permits, City Planning Commission with Appeals to City Council, Electric Power Generating Sites, Plants, or Stations

CITYWIDE

A solar photovoltaic power source is similar to a thermal power source. Therefore, solar panel energy generating facilities-facilities designed to generate electric power primarily for offsite use or sale-are considered electric power generating sites, plants, or stations, and are subject to conditional use permits per Sections 12.24-T,3(b) and 12.24-U,7.

Section 12.21-A,2 of the Code provides in pertinent part:

2. Other Use and Yard Determinations by the Zoning Administrator. The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.

**Background**

Solar panel energy has grown in popularity as a renewable power source in Los Angeles due to many factors, including increasing environmental consciousness, local



utility financial incentives, rising energy costs, increasing efficiency and cost reduction of solar panel technology, and sunny Los Angeles weather.

As such, the economy of solar panel energy generation has changed. In 2013, the Los Angeles Department of Water and Power (LADWP) established the Feed-in-Tariff (FiT) program. The FiT program enables the LADWP to purchase energy generated from qualifying solar panel electric generating facilities under standardized contracts.

Within the local regulatory framework, a conditional use permit is required for electric power generating sites, plants, or stations that are "fueled by any thermal power source or technology, provided that the facilities comply with all applicable state and federal regulations." Solar energy can be generated by two forms of technology: thermal and photovoltaic. Photovoltaic employs modern solar panels as its energy source. Therefore, it has been called to question whether solar panel energy generating facilities - facilities designed to generate electric power primarily for offsite use or sale - are subject to a conditional use permit under the procedure established for electric power generating sites (12.24-T,3(b) and 12.24-U,7).

This question is of high importance, as the Zoning Code is an enumerated code. In other words, uses not enumerated in the Code are not permitted. Therefore, if solar panel energy generating facilities - facilities designed to generate electric power primarily for off-site use or sale - do not qualify as electric power generating sites, plants, or stations, they may not be permitted at all.

To be clear, this question does not include solar energy systems that are ancillary to the property's primary use and generate electricity primarily for on-site use. Examples include devices or structural features designed for water heating, space heating or cooling, or solar panels installed on the roof of an occupied single-family home to reduce monthly electric bills.

### **Determination**

A solar photovoltaic power source is similar to a thermal power source. Therefore solar panel energy generating facilities - facilities designed to generate electric power primarily for off-site use or sale - are considered electric power generating sites, plants, or stations, and are subject to conditional use permits per 12.24-T,3(b) and 12.24-U,7.

Section 12.24 was written when solar energy generating sites were not yet contemplated as a realistic primary use of land. Thus, the stipulation of a "thermal power source" was not intended to preclude solar photovoltaic power sources. New technology has simply yielded a similar land use that relies on a different, but comparable, energy source.

### **APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after OCTOBER 3, 2014, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal



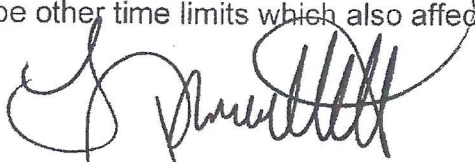
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LINN K. WYATT  
Chief Zoning Administrator

LKW:lmc



LINN K. WYATT  
CHIEF ZONING ADMINISTRATOR

**ASSOCIATE ZONING ADMINISTRATORS**

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October 24, 2014

Public Counters

Department of Building and Safety

Other Interested Parties

CASE NO. ZA 2014-3943(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Buildings Nonconforming as to Height,  
Section 12.23 of the Los Angeles  
Municipal Code

Added to or Enlarged as referenced in  
Section 12.23-A,2 of the Los Angeles  
Municipal Code

CITYWIDE

**RELOCATION OF FLOOR AREA IN NONCONFORMING BUILDINGS**

Floor Area relocated within a nonconforming building shall not be considered as adding to or expanding a nonconforming building. The Floor Area shall be considered "relocated" Floor Area as long as the relocated Floor Area is located within the existing building envelope (prior to reuse or tenant improvements) and does not cause a net increase of existing floor area. The building envelope is defined by the existing exterior walls and existing roof line; existing Floor Area refers to the amount of Floor Area contained in the subject nonconforming building at the time an application for a construction permit is submitted to the City.

The subject Zoning Administrator's Interpretation shall not be construed to confer any additional privileges or benefits to nonconforming buildings or uses as regulated by Section 12.23. Nonconforming use of buildings shall continue to be regulated by Section 12.23-B, including but not limited to changes of use and required parking.

**AUTHORITY OF THE ZONING ADMINISTRATOR TO INTERPRET ZONING REGULATIONS**

Section 12.21-A,2 of the Code provides, in pertinent part, as follows:

"2. Other Use and Yard Determinations by the Zoning Administrator. The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the



various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulations is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

## **BACKGROUND**

Nonconforming buildings are buildings, structures, or portions thereof that lawfully existed prior to the effective date of more restrictive Code regulations and retain limited "grandfathered" rights pursuant to Code Section 12.23 Nonconforming Building and Uses. Specifically with respect to Floor Area, Section 12.23-A,2 restricts buildings "nonconforming as to height" from being "added to or enlarged in any manner, unless the additions or enlargements conform to all the current regulations of the zone and other applicable current land use regulations ...". In this context, additions or enlargements include exceeding the allowed Floor Area (which is a height regulation), number of stories, or vertical distance above grade.

The Code defines Floor Area as "the area in square feet confined within the exterior walls of a Building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing Building-operating equipment or machinery, parking area with associated driveways and ramps, space dedicated to bicycle parking, space for the landing and storage of helicopters, and Basement storage areas." Consequently, any building, new or existing, will usually consist of portions that are counted as "Floor Area" and portions that are not.

In the course of remodeling an existing nonconforming building there are situations in which portions of a building are planned to be removed entirely or appropriated for uses that are not counted as "Floor Area", such as for stairways, shafts, basement storage areas, etc., resulting in the reduction of existing Floor Area. As an example, an applicant may need to change the size and location of an existing elevator shaft, which would require the conversion of the old elevator shaft (not counted as Floor Area) into another use, potentially new mezzanine office space (Floor Area), and the conversion of a portion of existing office space (Floor Area) into a new elevator shaft (not counted as Floor Area). Current Department of Building and Safety practice would result in the loss of Floor Area assigned to the existing office space being converted. In an effort to get full use of all the nonconforming Floor Area rights of existing buildings, applicants have inquired about being allowed to relocate Floor Area of equal size to another part of the interior of the building resulting in no net loss of Floor Area.

Relocating existing Floor Area in nonconforming buildings should not be considered as an addition or an enlargement, because the amount of existing Floor Area is not being increased; the amount of existing Floor Area is either being retained or reduced. In addition, Floor Area is not allowed to be relocated outside of the existing exterior walls or existing roof line.

A precedent for relocating Floor Area was established by a Zoning Administrator's Interpretation regarding the Adaptive Reuse regulations provided under Los Angeles Municipal Code Section 12.22-A,26. The Adaptive Reuse regulations were intended to



facilitate the conversion of older, economically distressed or historically significant buildings to apartments, live/work units or visitor-serving facilities so as to revitalize and reduce vacant space in the downtown area, among other goals. On December 21, 2004, under Case No. ZA 2004-7710(ZAI), the Zoning Administrator provided an interpretation which clarified what changes of Floor Area use and what newly constructed areas are considered "adding new floor area that enlarges a building," in recognition of the need to update floor plans which may result in a reduction of what was formerly counted as Floor Area. The ZAI concluded that the construction of new Floor Area, as long as it is offset by an equivalent reduction in existing Floor Area, would not be considered as "adding new floor area that enlarges a building" and would be allowed under the Adaptive Reuse regulations.

There is also a need to facilitate, in a similar manner, the efficient modernization or reuse of nonconforming buildings that do not qualify as Adaptive Reuse projects. Flexibility is needed to repurpose portions of existing Floor Area for uses that are not counted as Floor Area, without losing the "grandfathered" rights to the total amount of existing Floor Area, in order to retain or enhance the financial viability of older properties on a citywide basis. Without such flexibility, older properties for which demolition and new construction is not a realistic option might remain vacant or underutilized and contribute to blight rather than the physical and economic revitalization of a neighborhood.

#### **DETERMINATION**

Relocation of existing Floor Area within a nonconforming building shall not be considered as "adding to" or "expanding" a nonconforming building and shall be considered "relocated" Floor Area as long as the relocated Floor Area does not breach the existing building envelope and does not cause a net increase of existing floor area. The building envelope is defined by the existing exterior walls and existing roof line; existing Floor Area refers to the amount of Floor Area contained in the subject nonconforming building at the time an application for a construction permit is submitted to the City. The intent of the Code in prohibiting additions or enlargements of existing legally nonconforming buildings as to height was to limit further expansion of nonconforming buildings outside the existing building envelope, not to interfere with their modernization or efficient reuse. Modernization or reuse is desirable as it reduces vacant space and facilitates the revitalization of neighborhoods. Especially in areas in need of economic revitalization, the reuse of existing buildings can be more financially feasible with less environmental impact than demolishing a building for new construction. Absent reasonable options for reuse, such buildings may become a blight to the neighborhood.

For the reasons set forth above, the relocation of Floor Area from one part of an existing building to another does not constitute an "addition or enlargement" and is therefore permitted under Section 12.23-A,2.

This interpretation shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.

#### **APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after NOVEMBER 10, 2014, unless an appeal therefrom is filed with the City Planning

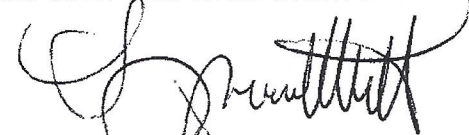


Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>.** Public offices are located at:

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If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.



LINN K. WYATT  
Chief Zoning Administrator

LKW:AB:PJN:Imc



LINN K. WYATT  
CHIEF ZONING ADMINISTRATOR

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July 8, 2015

Department of City Planning  
Office of Zoning Administration  
Department of Building and Safety  
All Interested Parties

CASE NO. ZA 2015-2348(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Lists of Uses Permitted in Various  
Zones

CITYWIDE

Section 12.21-A,2 of the LAMC provides in pertinent part as follows:

2. Other Uses Determined by Administrator – The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.

**BACKGROUND**

Pursuant to authority contained in Section 12.21-A,2 of the Los Angeles Municipal Code, the Zoning Administrator has amended the Lists of Uses Permitted in Various Zones, last updated in 2003, to include new land uses determined to be similar to those specifically mentioned in the Comprehensive Zoning Plan. List No. 1 presents uses organized by zone category, while List No. 2 presents uses alphabetically. Where previous lists only included uses permitted by-right, the updated List No. 1 and List No. 2 incorporate uses permitted by conditional use permit (identified by red text) and uses permitted as a public benefit (identified by green text). All uses listed are subject to the more detailed regulations provided in the Los Angeles Municipal Code.

These lists supersede the 2003 lists adopted pursuant to ZA 2003-4842(ZAI) and are the official use lists to be utilized by the Department of City Planning, Office of Zoning Administration and the Department of Building and Safety.


**APPEAL PERIOD – EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after JULY 23, 2015, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

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If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.



LINN K. WYATT  
Chief Zoning Administrator

LKW:TR:Imc

**Attachments**

- List No. 1 - Executive Summary – 2015 Update for Use List
- List No. 2 - Uses Permitted in Various Zones in the City of Los Angeles



CHARLES J. RAUSCH, JR.  
INTERIM CHIEF ZONING ADMINISTRATOR

**ASSOCIATE ZONING ADMINISTRATORS**

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April 12, 2017

Department of City Planning  
Office of Zoning Administration  
Department of Building and Safety  
All Interested Parties

**MODIFICATION TO  
CASE NO. ZA 2015-2348(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

**Lists of Uses Permitted in Various Zones**

**CITYWIDE**

Section 12.21 A.2. of the LAMC provides in pertinent part as follows:

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**BACKGROUND**

Pursuant to authority contained in Section 12.21 A.2 of the Los Angeles Municipal Code, the Zoning Administrator amended the Lists of Uses Permitted in Various Zones in 2016 to include new land uses determined to be similar to those specifically mentioned in the Comprehensive Zoning Plan.

In the December 2016 Use List Update, "Yoga Studio" was considered to be similar to "Dance Studio," and was expanded to also include other fitness-related activities, such as "Pilates, Spinning, Boxing, Barre, etc." As such, the use was renamed to "Fitness Studio" across both Use Lists for clarification.

Subsequently, it was determined that the term "Fitness Studio" encompasses a broad range of fitness-related activities, some of which require the use of equipment and machinery. Those fitness-related uses that utilize such equipment and machinery shall be correlated to a "Gymnasium" or "Health Club," and shall remain in the C2 zone only.

### AMENDMENT

The "Fitness Studio" use shall be amended as follows:

Fitness Studio (including but not limited to Yoga, Pilates, Barre, etc) -- (see Dance Studio)

Additionally, the "Gymnasium" use shall be amended as follows:

Gymnasium (including but not limited to CrossFit, Spinning, Boxing, etc), with fixed equipment -- C1.5, C2, C5, CM, M1, M2, M3

### APPEAL PERIOD -- EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after April 27, 2017, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. Forms are available on-line at <http://planning.lacity.org>. Public offices are located at:

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CHARLES J. RAUBSCH, JR.  
Interim Chief Zoning Administrator

CJR:TR



CHARLES J. RAUSCH, JR.  
INTERIM CHIEF ZONING ADMINISTRATOR

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<http://planning.lacity.org>

May 3, 2018

Department of City Planning  
Office of Zoning Administration  
Department of Building and Safety  
All Interested Parties

MODIFICATION TO  
CASE NO. ZA 2015-2348(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Lists of Uses Permitted in Various Zones

CITYWIDE

Section 12.21 A.2. of the LAMC provides in pertinent part as follows:

2. Other Uses Determined by Administrator – The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his or her judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.

**BACKGROUND**

Pursuant to authority contained in Section 12.21 A.2 of the Los Angeles Municipal Code, the Zoning Administrator amended the Lists of Uses Permitted in Various Zones in 2016 to include new land uses determined to be similar to those specifically mentioned in the Comprehensive Zoning Plan.

In the December 2016 Use List Update, several new alcohol-related uses were added, including Wine Bar, Gastropub, Cocktail Lounge, Tavern, and Microbrewery. These uses were interpreted to be similar to eating and drinking establishments, which are permitted by a Conditional Use Permit (CUP) in commercial zones. Thus, the Use List clarified that all of these uses were to be permitted through a CUP in the R5, CR, C1, C1.5, C2, C4, C5, MR1, M1, MR2, M2, and M3 Zones.

The interpretation above also pertains to other establishments that serve alcoholic beverages on-site, such as microdistilleries. While a traditional distillery is industrial in nature, is not regulated as to output, and is permitted only in the M3 Zone, a "Microdistillery" is limited by its Alcoholic Beverage Control License to a maximum output of 100,000 gallons per year and is another alcohol-related use similar to those described above. Therefore, they shall be regulated in the same manner.

### **AMENDMENT**

The "Microdistillery" use shall be added to the Use List as follows:

Microdistillery (on-site consumption) – CUP in R5 (see ZA 2007-5927 for restrictions), CR, C1, C1.5, C2, C4, C5, CM, MR1, M1, MR2, M2, M3; must meet ABC requirements.

### **APPEAL PERIOD – EFFECTIVE DATE**

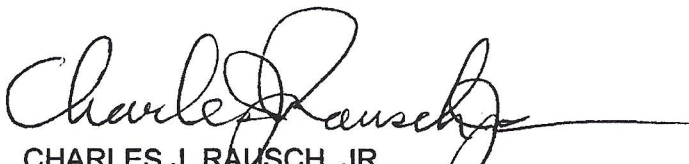
The Zoning Administrator's determination in this matter will become effective after May 18, 2018, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. Forms are available on-line at <http://planning.lacity.org>. Public offices are located at:

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**West Los Angeles**  
Development Service Center  
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CHARLES J. RAUSCH, JR.  
Interim Chief Zoning Administrator

CJR:TR



CITY OF LOS ANGELES  
CALIFORNIA



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November 19, 2004

Interested Parties

CASE NO. ZA 2004-7115(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Department of Building and Safety

The ground floor of a mixed use development in the C4 Zone may contain parking as well as other common facilities ancillary to/for residential units above without such floor being considered a residential use for the purpose of determining yard setback requirements.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses and Yard Determinations by the Zoning Administrator - The Zoning Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his or her judgement, the other uses are similar to and no more objectionable to the public welfare than those listed.

The Zoning Administrator shall also have authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

Background

A number of years ago, the City adopted a series of regulations treating the situations where developments containing both commercial and residential uses would be contained within a single multi-story structure in a commercial zone. In the instant situation, a quandary involving property in the C4 Zone has arisen. Section 12.16-C of the Los Angeles Municipal Code (C4 area regulations) provides:

"...C. Area ... No building or structure ... unless lot areas ... are provided and maintained in connection with such building ...

2. Side and Rear Yards ... Not required for buildings erected and used exclusively for commercial purposes.



For all buildings erected and used for residential purposes, side and rear yards conforming to the requirements of the R4 Zone ... shall be provide and maintained at the floor level of the first story used for residential purposes ...".

The context in which the present need to examine these provisions has arisen is in conjunction with a proposed mixed use residential and commercial building that is currently under plan check review by the Department of Building and Safety. However, the issue has Citywide implications and resolution will apply in future analogous situations elsewhere in the City.

This section has been interpreted to indicate that parking for residential units, along with ancillary facilities consistent with commercial uses such as building property management offices or community rooms, storage, etc., located on the ground floor are considered "residential uses". As a result, the Department of Building and Safety applies ground floor yard setbacks based upon residential standards and not commercial standards.

Allowing this interpretation will result in a setback requirement on the ground floor of a building which are the same as for a first floor of a building which consisted entirely of commercial uses.

#### Discussion

The Housing Element of the City's General Plan calls for additional housing to be made available throughout the City. The Zoning Code allows the development of escalating densities in commercial zones. The General Plan also encourages mixed use developments in this area.

The requested interpretation will have no adverse impacts. A completely commercial building of the same size on the same site would not observe any setbacks. Requiring that parking for the residential units have yard setbacks where commercial parking would not need to be set back is inconsistent with the spirit of increasing housing production for the City under these mixed use situations.

In most commercial zones, there are no requirements for yards for commercial uses. If the first floor of the proposed project will be used for office space, along with parking and ancillary space (community room, property management office, lobby, etc.) allowing this space to have ground floor setbacks consistent with commercial buildings provides a more efficient operation of the parking for the proposed project as well as better layout of the commercial space in this mixed use building. Parking and commercial uses in the same zone are not required to observe a similar setback and the interpretation to allow parking for residential uses and office uses connected to the residential uses will have no adverse impact on adjacent properties. Observing the required setbacks for residential uses due to parking on the ground floor is impractical and infeasible in that it creates a smaller ground floor, reducing the size of the commercial space available on the ground floor and reducing the number of covered parking spaces on the floor for residential uses, with no benefit to the adjacent properties.



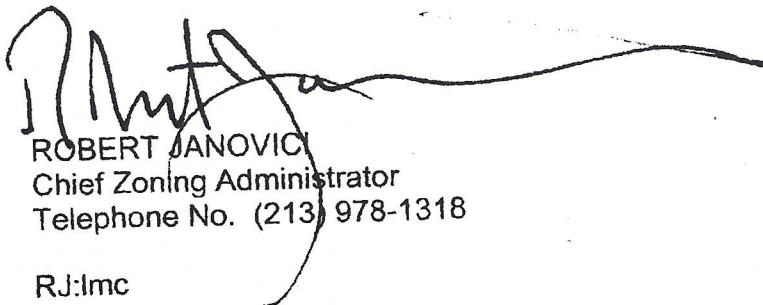
Required parking and other ancillary facilities for residential units located at the ground floor facilities not be considered a residential use for purposes of determining yard setback requirements.

As noted, supra, over the course of years, Section 12.21-A,2 of the zoning regulations has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances.

This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists. This Section has also been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's zoning regulations.

Consequently, at the ground floor of a mixed use development in the C4 Zone, required parking for residential units as well as other ancillary facilities for residential units may be located on the ground floor of the building without necessitating observance of the residential yard requirements at that level. Such ancillary facilities must not however be part of the living quarters/leasehold of a specific residential unit above the ground floor.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.



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RJ:lmc

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December 21, 2004

**Interested Parties**

Department of Building and Safety

**CASE NO. ZA 2004-7710(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

Downtown Project Area as Defined in  
Paragraph (g) of Section of Section  
12.22-A, 26 of the Los Angeles  
Municipal Code

Adaptive Reuse Projects Approved  
Pursuant to Section 12.24-X,1 of the  
Los Angeles Municipal Code

This interpretation replaces and supercedes Case No. ZA 2003-5444(ZAI) dated August 11, 2003. In the case of conflict between this interpretation and Case No. ZA 2004-6824 (ZAI) dated November 5, 2004, this interpretation shall govern.

**ADAPTIVE REUSE PROJECT**

The definition of "adaptive reuse project" set forth in Paragraph (c) of Section 12.22-A, 26 of the Los Angeles Municipal Code shall include any change of an existing use to new uses that are accessory to dwelling units, guest rooms, or joint living and work quarters. These accessory uses must be:

- (1) Consistent with the definition of "accessory use" set forth in Section 12.03 of the Code; and
- (2) Permitted by the underlying zone.

**NEW FLOOR AREA**

The following actions shall not be considered as adding new floor area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions and other provisions set forth in Section 12.22-A, 26 of the Code:





- (1) Changing the use of any existing portion of an eligible building that Section 12.03 of the Code does not define as "floor area", to new dwelling units, guest rooms, joint living and work quarters, or accessory uses; and
- (2) Demolishing and removing any interior existing portion of an eligible building for the construction of new dwelling units, guest rooms, joint living and work quarters, or accessory uses. The newly constructed areas shall not exceed the area of the existing portion demolished, and must be located within the same building's existing exterior walls and below the existing roof. However, new rooftop structures may be constructed as discussed below.

The interpretation set forth above shall apply to existing mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or any other existing portion of an eligible building, either above or below the existing roof.

### **NEW ROOFTOP STRUCTURES**

The construction of new structures on the existing roof of an eligible building shall not be considered as adding new floor area that enlarges the building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in Section 12.22-A, 26 of the Code, subject to the following conditions:

- (1) The new rooftop structures shall not exceed one usable level;
- (2) The new rooftop structures shall not be permitted on any portion of any eligible building that is currently nonconforming as to height. Furthermore, the new rooftop structures shall not cause any portion of any eligible building that is currently conforming as to height to exceed any height limits set forth by the Code, underlying zone, height district, or any other applicable regulation.
- (3) The new rooftop structures shall not cause a net increase in the eligible building's floor area. Any newly created floor area must be offset by an equivalent reduction in existing floor area;
- (4) The new rooftop structures shall be not used for dwelling units, guest rooms, or joint living and work quarters, but must be used solely for accessory uses or open space. Notwithstanding, the existing roof of an eligible building may be used as the top level of a multiple-level dwelling unit, guest room, or joint living and work quarters. However, no complete and separate dwelling units, guest rooms, or joint living and work quarters may be constructed on the existing roof of an eligible building; and
- (5) Except for required stair shafts, any newly created roof areas shall not be used for accessory uses, open space, mechanical rooms, elevator shafts, elevator penthouses, or appurtenances, signs, devices or structures of any kind.

**OPEN SPACE AREAS**

Balconies, patios, terraces, recreation and fitness rooms, pools, gardens, and other common or private open space areas that are created by reusing existing portions of an eligible building shall not be considered as floor area, or considered as adding new floor area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in Section 12.22-A,26 of the Code. Such existing portions may include interior space, lobbies, fire escapes, rooftops, mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or other existing portions of an eligible building, either above or below the existing roof. However, these newly created open space areas may be counted toward the calculation of the 450 square-foot minimum floor area and 750 square-foot minimum average floor area standards for dwelling units and joint living and work quarters set forth in Section 12.22-A,26(i) of the Code.

**USE OF EXISTING PARKING SPACES**

Section 12.22-A,26(h)(3) of the Code states that parking that existed on the site of the adaptive reuse project on June 3, 1999 "shall be maintained and not reduced". At the building owner's sole discretion, these existing spaces may be used to provide parking for any on-site or off-site use. This interpretation shall not apply to for-sale adaptive reuse projects that the Advisory Agency approves as part of a division of land determination. Instead, the conditions of the Advisory Agency's determination shall apply.

**AUTHORITY OF THE ZONING ADMINISTRATOR TO INTERPRET ZONING REGULATIONS**

Section 12.21-A, 2 of the Code provides, in pertinent part, as follows:

"2. Other Use and Yard Determinations by the Zoning Administrator. The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

**BACKGROUND**

On June 3, 1999, Ordinance No. 172,571, commonly referred to as the "Downtown Adaptive Reuse Ordinance", went into effect. The ordinance was amended by Ordinance No. 174, 315, which went into effect on December 20, 2001.



The purpose of the Downtown Adaptive Reuse Ordinance, as set forth in Paragraph (a) of Section 12.22-A,26 of the Code, is to "revitalize the Greater Downtown Los Angeles Area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities. This will help to reduce vacant space as well as preserve Downtown's cultural and architectural past and encourage the development of a live/work and residential community Downtown, thus creating a more balanced ratio between housing and jobs in the region's primary employment center."

#### Adaptive Reuse Project

The Downtown Adaptive Reuse Ordinance defines an "adaptive reuse project" as "any change of use to dwelling units, guest rooms or joint living and work quarters in all or any portion of any eligible building". A question has been raised as to whether accessory uses are covered by this definition, and therefore eligible to benefit from the ordinance's incentives, exceptions, and other provisions.

As a matter of real estate industry practice, residential developments, including multiple family apartment buildings, condominiums, and hotels and other visitor-serving facilities, typically provide amenities for the common enjoyment and use of residents and guests. These amenities, which may include common open space, recreation and fitness rooms, pools, or recycling areas or rooms, are accessory to the building's main use. Such amenities greatly improve the overall quality of residential developments, and also provide an important public benefit by providing residents and guests with on-site access to recreational and other facilities that otherwise may be in short supply in the surrounding neighborhood.

The Code defines an accessory use, in part, as "a use which is customarily incidental to that of the main building or the main use of the land and which is located in the same zone or a less restrictive zone and on the same lot with a main building or use." The Code allows accessory uses by right in the R3, R4 and R5 multiple dwelling zones, thereby reinforcing and encouraging the real estate industry's practice of providing amenities in residential buildings. In light of this Code provision, and because adaptive reuse projects involve converting existing buildings to new residential uses, it is reasonable to conclude that the definition of "adaptive reuse project" also covers accessory uses.

This conclusion is consistent with the ordinance's objective to revitalize downtown by encouraging residential projects. An effective way to increase the economic viability of these developments, and thus contribute toward downtown' revitalization, is by providing beneficial accessory uses. Given this objective, it can be concluded that the ordinance was not intended to exclude the provision of accessory uses that are a typical component of residential developments, and that may be necessary to attract residents and guests in an evolving and still largely unestablished market.



### New Floor Area

The Downtown Adaptive Reuse Ordinance includes a variety of incentives, exceptions and other provisions; the ordinance's six incentives are spelled out in Paragraph (h) of Section 12.22-A,26 of the Code. With the exception of mezzanines, as set forth in Subparagraph (1) of Section 12.22-A,26(h), the ordinance states that these incentives "shall not apply to any new floor area that is added to an Adaptive Reuse Project".

Because the ordinance doesn't define what is meant by "new floor area", the Code's definition of floor area governs. The Code defines floor area as "that area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing building-operating equipment or machinery, parking areas with associated driveways and ramps, space for the landing and storage of helicopters, and basement storage areas." Consequently, any existing building will usually consist of portions that are defined as "floor area", and portions that are not.

Since an adaptive reuse project means a "change of use...in all or any portion of any eligible building", it's reasonable to conclude that the ordinance was not intended to limit the area in an eligible building that may be converted to an adaptive reuse project to those existing portions that are strictly defined as "floor area". Instead, the ordinance was intended to apply to all existing usable space in an eligible building.

On the other hand, the ordinance was not intended to apply to additions that would significantly enlarge an eligible building, since that would be inconsistent with the concept of adapting an existing structure for a new use. Accordingly, with the exception of mezzanines, the ordinance's incentives were not applied to "new floor area" added to an eligible building.

A strict reading of the ordinance could suggest that changing the use of certain portions of an eligible building does *add* "new floor area". Such an overly literal conclusion would be absurd, however, since the change of use would not actually enlarge the building by even a single square foot. Since a prime objective of the ordinance is to reduce vacant space, the conversion of any existing portions of an eligible building for an adaptive reuse project is consistent with the ordinance's intent. Even if such conversion results in the technical reclassification of some portions of an eligible building as "new floor area", the entire adaptive reuse project should benefit from all of the ordinance's incentives, exceptions, and other provisions.

A related issue concerns adaptive reuse projects that involve interior demolition. The removal of existing portions of an eligible building is usually necessary to effectuate an efficient floor plan and project design that accommodates the new residential and accessory uses. Such removal also may be necessary to make room for upgraded building systems, including new elevators and other mechanical equipment, and to comply with building and fire code provisions that are a condition of the permit.



Such demolition and removal may create leftover empty space. A question has been raised as to whether filling this empty space with new residential and accessory uses adds "new floor area".

If the newly constructed areas are located within the eligible building's existing exterior walls below the existing roof (with the exception of new rooftop structures, as further discussed below), and if the new areas do not exceed the area of the demolished and removed portions, then the building has not actually been enlarged. The building's interior has merely been reconfigured.

The newly constructed areas should therefore not be considered as adding new floor area that enlarges the existing building. Instead, these areas should be considered as integral components of an adaptive reuse project, and therefore fully entitled to benefit from the ordinance's incentives, exceptions, and other provisions. New interior construction to replace demolished and removed portions of an eligible building is consistent with the adaptive reuse concept, and furthers the ordinance's purpose, which is to facilitate the complete conversion of economically obsolete buildings to new, more productive uses.

#### New Rooftop Structures

Existing roofs are usually the site of a variety of structures, such as elevator penthouses or mechanical rooms, that provide a support and/or accessory function to a building's main use. For new residential developments, the rooftop is often the site of common open space areas and accessory structures, including fitness and recreation rooms, pools, tables and benches, and similar features and facilities.

The Code's open space regulations, as set forth in Section 12.21-G, specify that roof decks may be used for common open space. As set forth in Section 12.21.1-B3, the Code also permits roof structures housing elevators, stairways, tanks, ventilating fans, or similar equipment to be erected above applicable height limits. These two Code provisions recognize that the rooftop is a unique feature that is often the only viable location for a building's necessary system components - or, in the case of accessory structures and uses, the best location. This is especially the case for adaptive reuse projects, where the new uses must be accommodated within the building's existing exterior walls, and the lot is too small to allow for the construction of entirely new structures without encroaching on the building's existing footprint.

Since the Code excludes roofs from the definition of "floor area", the construction of new rooftop structures could be considered as adding new floor area that enlarges an eligible building. The new rooftop structures would not benefit from the ordinance's incentives, exceptions, and other provisions, even though the structures themselves would be necessary and integral components of the adaptive reuse project.

Since the roof is an existing portion of an eligible building, reusing it as the platform for new accessory structures is essentially no different from adapting portions below the roof to new uses. In some cases, developers may wish to use the roof as the top level of a multiple level dwelling unit, guest room, or joint living and work quarters, creating



"townhouse-style" units. Since a complete and separate new dwelling unit, guest room, or joint living and work quarters would not be constructed, this approach is still consistent with the adaptive reuse concept. The new structures would not be independently accessible. Rather, they would be functionally and architecturally integrated extensions of the new uses provided below the roof that would not enlarge the building beyond what would be permitted for accessory uses.

For these reasons, the construction of new rooftop structures necessary to fulfill the conditions of the permit; to provide accessory uses or open space areas that are typical components of residential developments; and to provide additional floor space for "townhouse-style" residential uses provided both below and above the existing roof of an eligible building; is consistent with the adaptive reuse concept. If these structures do not exceed one story; do not cause the eligible building to exceed any applicable height limits; and do not cause a net increase in the eligible building's floor area; then they should not be considered as adding new floor area that enlarges an eligible building. Instead, the structures should be considered as integral components of the adaptive reuse project entitled to benefit from all of the ordinance's incentives, exceptions, and other provisions.

#### Open Space Areas

One way for developers to increase the marketability and viability of adaptive reuse projects is to provide desirable common and private open space amenities typically provided in new residential construction. Balconies, patios, terraces, recreation and fitness rooms, pools, and gardens are examples of such desirable amenities.

For adaptive reuse projects, the challenge is provide these amenities by reusing existing portions of older buildings originally designed and constructed for non-residential purposes. Such existing portions may include interior space, lobbies, fire escapes, rooftops, mechanical rooms, elevator shafts, stair shafts, or elevator penthouses, either above or below the existing roof. A question has been raised as to whether existing portions of an eligible building reused to provide open space should still be considered as floor area, or considered as adding new floor area.

To the extent that classifying such open space amenities as floor area imposes a barrier to the successful conversion of eligible buildings, this barrier should be removed as contrary to the ordinance's fundamental purpose, which is to facilitate the conversion of eligible buildings to residential uses. If existing portions of an eligible building are reused to provide open space, then the building has not actually been enlarged. For these reasons, any existing portions of an eligible building that are converted to open space should no longer remain classified as floor area.

However, any newly created open space areas should still be included in determining compliance with the floor area standards set forth in Section 12.22-A,26(i) of the Code. This regulation establishes a minimum floor area standard of 450 square feet and a minimum average floor area standard of 750 square feet for dwelling units and joint living and work quarters. These standards were intended to facilitate the habitability and quality of the adaptive reuse project. Such open space areas are desirable residential



amenities for the exclusive use and benefit of the residents and guests who will occupy the adaptive reuse project. In a sense, these open space areas are extensions of the interior living spaces. Accordingly, both common and private open space areas should be included in calculating compliance with the minimum floor area and minimum average floor area standards. This will provide an incentive for adaptive reuse projects to provide the same kind of open space amenities typically provided in new residential buildings. Conversely, adaptive reuse projects that choose to provide these amenities will not be penalized by having open space subtracted from the determination of minimum floor area and minimum average floor area for dwelling units and joint living and work quarters.

#### Use of Existing Parking Spaces

One of the Downtown Adaptive Reuse Ordinance's main incentives relates to required parking. As the staff report to the City Planning Commission dated May 28, 1998, states, "Many older buildings, especially historic structures, do not have enough existing parking to meet current Code requirements associated with a change of use." (CPC 95-0343 CA). Since additional parking generally cannot be accommodated on the site of existing buildings, especially historic and other older buildings in Downtown Los Angeles, imposing Code required parking could cause an undue hardship.

The ordinance seeks to ease this hardship by making the "required number of parking spaces" the same as the parking that existed on the site on June 3, 1999. To preserve whatever minimal parking might exist on-site, the ordinance also included a requirement that this parking be maintained and not reduced. A question has been raised as to whether the ordinance requires that all of this existing parking be dedicated for the exclusive use of the persons, families or guests who will occupy the adaptive reuse project. This question is especially pertinent since some non-historic office buildings converted to adaptive reuse projects may have on-site parking that actually exceeds what the Code would require if the ordinance had not been adopted and taken effect.

As further stated in the staff report to the City Planning Commission, part of the parking incentive's rationale is "to provide developers with the flexibility necessary to pursue creative fixes to the parking problem....". In other words, developers should have the option to allocate a building's parking spaces for on-site uses, as necessary, or if justified, to enter into shared parking arrangements that provide parking for various off-site uses. As the supply and demand for parking in the area surrounding the adaptive reuse project increases or decreases, a building owner may need to adjust his or her initial parking allocation decisions. For these reasons, it can be concluded that the ordinance's parking provisions were intended to ensure the preservation of a scarce resource, while allowing for its efficient allocation through market mechanisms.

#### **FINDING**

For the reasons set forth above, and as more particularly described elsewhere in this determination, I find that: the definition of "adaptive reuse project" includes accessory uses; that changing the use of any portion of an eligible building does not add new floor area; that demolishing any portion of an eligible building does not add new floor area,

so long as any newly constructed areas do not exceed the area of the portions removed; that open space areas created by reusing existing portions of an eligible building are not floor area or new floor area that enlarges an eligible building, but may be counted toward determining compliance with the minimum floor area and minimum average floor area standards for dwelling units and joint living and work quarters; that new one-level rooftop accessory structures (including the top levels of multiple-level dwelling units, guest rooms, or joint living and work quarters) do not add new floor area if built on the existing roof of an eligible building; and that existing parking may be used to provide parking for any on-site or off-site use.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Department of City Planning.

A handwritten signature in black ink, appearing to read 'R. Janovic', with a long horizontal flourish extending to the right.

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August 23, 2005

Interested Parties

Department of Building and Safety

CASE NO. ZA 2005-5630(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION  
CITYWIDE  
Driveways to Required Parking Spaces  
for Single-Family Dwellings on  
Downsloped Lots Not Subject to the  
3.5-foot Height Limit Within the  
Required Front Yard

Notwithstanding Section 12.21-A,17(a)(3) of the Los Angeles Municipal Code, raised driveways to access required parking spaces for single-family dwellings on downsloped lots may be constructed within the required front yard provided that:

- The driveway does not exceed 20 feet in width.
- The driveway and any safety rail or fence thereon do not exceed 3-1/2 feet above the adjacent paved portion of the street with additional height appropriate to account for the slope of the driveway. The height shall be measured from the highest point of the street where the driveway meets the paved portion of the street after any required improvement or widening.
- This ZAI does not supercede the provisions of any specific plans.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed.... The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it appears to a specific property or situation.... The Zoning Administrator shall also have authority to adopt general interpretations determining the proper application of the yard regulations to groups of lots located in hillside districts or affected by common problems."

This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.



Over the last few years, much of the housing development within the City has been infill development of vacant lots, particularly lots within the hillside areas. Property values, supply of vacant land and building technology have made these hillside lots feasible for building.

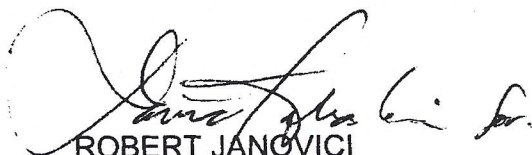
Downsloping lots fronting on substandard hillside streets have a particular problem relative to the driveway from the street to the garage. As the driveway proceeds from the street to the dwelling garage the subject property grade continues to slope down while the driveway continues at the same level as the street as it bridges the street to the garage over the downsloping grade. Section 12.22-C, 20 does not provide for these driveways as allowable projections in a front yard and further, Section 12.22-A, 17(a)(3) prohibits raised porches, platforms or landing places. This problem is exacerbated by many of these streets not being fully improved so that the height of the driveway and safety rail are often over-in-height even before the property line due to the downslope of the unimproved portion of the street dedication.

The Department of Building and Safety, since 1993, has allowed a maximum projection of 3-1/2 feet, including guard rails measured above adjacent grade. However, this is not enough to accommodate most of these driveways.

It is not the intent of the Code to prohibit legitimate access to a dwelling nor to require a special entitlement just to have that access when there are no issues of public, health, safety or welfare nor issues of light, air or view corridors. These are situations where the driveways and safety rail/fences are approximately 3-1/2 feet above the street and, if they were located on level terrain would be consistent with the Code requirements. However, due to the downslope grade of the lot they may technically be 10 to 15 feet in height. Many of these have been permitted by adjustments pursuant to Section 12.28 of the Los Angeles Municipal Code and generally have not involved any legitimate planning issues.

Therefore, I hereby determine that raised driveways to required parking spaces for single-family dwellings on downsloped lots are in conformance with the purpose and intent of the zoning regulations and will be permitted provided that:

- The driveway does not exceed 20 feet in width.
- The driveway and any safety rail or fence thereon do not exceed 3-1/2 feet above the adjacent street with additional height appropriate to account for the slope of the driveway. The height shall be measured from the highest point of the street where the driveway meets the paved portion of the street after any required improvement or widening.
- This ZAI does not supercede the provisions of any specific plans.



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August 23, 2007

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Department of Building and Safety  
Department of Recreation and Parks

**CASE NO. ZA 2006-8263(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

Parks and Recreational Facilities - Joint  
Living and Work Quarters

Quimby Act Provisions of the Los Angeles  
Municipal Code, including Sections 12.33,  
17.05-P, 17.07-H, 1712, and 17.58

**CITYWIDE**

For purposes of applying the Quimby Act provisions of the Los Angeles Municipal Code concerning parks and recreational facilities, including Sections 12.33, 17.05-P, 17.07-N, 17.12, and 17.58, joint living and work quarters shall be treated no differently than dwelling units. This determination shall apply to both adaptive reuse projects and new construction projects.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

Section 12.03 of the Code defines joint living and work quarters (commonly called "live/work units") to mean, in part, "A combined living and work unit that includes a kitchen and a bathroom." This definition is further refined by the following statement: "The residential portion of the unit, including the sleeping area, kitchen, bathroom and closet areas, occupies no more than 33 percent of the total floor area, and the living space is not separated from the work space."

In the past, this definition has caused some confusion as to whether the Code's commercial or residential development standards apply.

On November 5, 2004, Chief Zoning Administrator Robert Janovici, since retired, clarified the matter under Case No. ZA 2004-6824 (ZAI). In that interpretation he found that, "...the following provisions of the Code applicable to dwelling units and residential uses shall also apply, in equal fashion, to live/work units: parking and yards, buildable area, floor area and height, density, open space, loading spaces, and mini-shopping centers and commercial corner developments." The basis for Mr. Janovici's finding, in part, was that "live/work units include kitchens and bathrooms, just as dwelling units do. Dwelling units and live/work units are also built, sold, and leased in similar ways."

To provide for parks and recreational facilities the Code includes various provisions that implement the Quimby Act, a state law passed in 1975 (California Government Code §§66477) that authorizes cities and counties to adopt ordinances requiring developers to set aside land, donate conservation easements, or pay in-lieu fees. Revenues generated through the Quimby Act cannot be used for operation and maintenance. The Quimby Act provisions of the Code include Sections 12.33, 17.05-P, 17.07-N, 17.12, and 17.58.

Similar to the issue previously addressed by Mr. Janovici under Case No. ZA 2004-6824 (ZAI), a new issue has been raised as to how the Code's Quimby Act provisions apply to live/work units.

An increasingly popular residential product type, live/work units provide flexibility for the self-employed. Live/work units have helped accommodate the City's growing population, especially in a revitalizing downtown. While to date live/work units have primarily been developed as part of adaptive reuse projects, more and more they are being proposed for new construction projects built from the ground up.

Typically used as primary residences, live/work units create demand for new parks and recreational facilities the same as dwelling units do. Parks and recreational facilities are essential community amenities necessary to promote the public welfare and implement the General Plan. The Quimby Act provides an important and effective mechanism for cities and counties to meet these General Plan objectives. Accordingly, for the same reasons as set forth in Case No. ZA 2004-6824(ZAI), I therefore determine that live/work units, regardless if they are included in adaptive reuse projects or new construction projects, shall be treated no differently than dwelling units for purposes of applying the Quimby Act provisions set forth in the Code, including Sections 12.33, 17.05-P, 17.07-N, 17.12, and 17.58.

In-lieu fees or other Quimby Act requirements shall not be pro-rated or otherwise reduced based on the Code's limitation that the residential portion of a live/work unit shall occupy no more than 33 percent of total floor area.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.



**APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after SEPTEMBER 7, 2007, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at [www.lacity.org/pln](http://www.lacity.org/pln)**. Public offices are located at:

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If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.



MICHAEL LOGRANDE  
Acting Chief Zoning Administrator  
Telephone No. (213) 978-1318

ML:AB:Imc



# Los Angeles City Planning Commission

200 North Spring Street, Room 532, City Hall, Los Angeles, CA 90012

[www.cityofla.org/PLN/index.htm](http://www.cityofla.org/PLN/index.htm)

November 8, 2007

**CASE NO. ZA-2006-8263-ZAI-1A**

**CEQA: N/A**

**Plan: Citywide**

**Council Districts: All**

**Expiration Date: 11-21-07**

**Appeal Status: Not further appealable**

**Appellant:** Thomas Gilmore; **Representative:** Ketan Tantod  
**Applicant:** Chief Zoning Administrator, Office of Zoning Administration, City Planning Department

At its meeting of November 8, 2007, the City Planning Commission received a letter of withdrawal (attached) from the appellant, who appealed those parts of the Chief Zoning Administrator's determination, pursuant to Section 12.21-A, 2 of the Los Angeles Municipal Code, that include "adaptive reuse projects" in that: 1) regardless if the live/work units are included in adaptive reuse projects or new construction projects, shall be treated no differently than dwelling units for purposes of applying the Quimby Act provisions set forth in the Code, including Sections 12.33, 17.05P, 17.07-N, 17.12, and 17.58; and 2) live/work units, regardless if they are included in adaptive reuse projects, that the in lieu fees or other Quimby Act requirements shall not be prorated or otherwise reduced based on the Code's limitation that the residential portion of a live/work unit shall occupy no more than 33 percent of total floor area.

No project was proposed.

The City Planning Commission denied the appeal without prejudice and took the following action:

**Moved:** Usher  
**Seconded:** Roschen  
**Ayes:** Cardoso, Freer, Hughes, Kezios, Woo  
**Absent:** Kay, Montanez  
**Vote:** 7-0

  
\_\_\_\_\_  
Gabriele Williams, Commission Executive Assistant II  
City Planning Commission

Attachment: November 7, 2007 letter of appeal withdrawal

cc: Case File



November 7, 2007

City Planning Commission  
200 N. Spring Street, Room 539  
Los Angeles, CA 90012


Re: Case Nos.: ZA-2006-8262-ZA1-1A

To All Parties of Interest:

As the named Appellant in this case, I would like to withdraw my appeal and do not intend to offer a formal argument against the Chief Zoning Administrator's determination.

Should you have questions in this matter, please feel free to contact my office at (213) 622-4949.

Regards,



Tom Gilmore  
Manager  
Gilmore Associates

MICHAEL LOGRANDE  
CHIEF ZONING ADMINISTRATOR

**ASSOCIATE ZONING ADMINISTRATORS**

GARY BOOHER  
PATRICIA BROWN  
R. NICOLAS BROWN  
SUE CHANG  
ANIK CHARRON  
LARRY FRIEDMAN  
DANIEL GREEN  
LOURDES GREEN  
ERIC RITTER  
MICHAEL S.Y. YOUNG

**CITY OF LOS ANGELES**  
CALIFORNIA



ANTONIO R. VILLARAIGOSA  
MAYOR

**DEPARTMENT OF  
CITY PLANNING**

S. GAIL GOLDBERG, AICP  
DIRECTOR

**OFFICE OF  
ZONING ADMINISTRATION**

200 N. SPRING STREET, 7<sup>TH</sup> FLOOR  
LOS ANGELES, CA 90012

(213) 978-1318  
FAX: (213) 978-1334  
[www.lacity.org/PLN](http://www.lacity.org/PLN)

August 23, 2007

Interested Parties  
Advisory Agency  
Deputy Advisory Agencies  
Department of Building and Safety  
Department of Recreation and Parks

CASE NO. ZA 2006-8263(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Parks and Recreational Facilities - Joint  
Living and Work Quarters

Quimby Act Provisions of the Los Angeles  
Municipal Code, including Sections 12.33,  
17.05-P, 17.07-H, 1712, and 17.58

**CITYWIDE**

For purposes of applying the Quimby Act provisions of the Los Angeles Municipal Code concerning parks and recreational facilities, including Sections 12.33, 17.05-P, 17.07-N, 17.12, and 17.58, joint living and work quarters shall be treated no differently than dwelling units. This determination shall apply to both adaptive reuse projects and new construction projects.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

Section 12.03 of the Code defines joint living and work quarters (commonly called "live/work units") to mean, in part, "A combined living and work unit that includes a kitchen and a bathroom." This definition is further refined by the following statement: "The residential portion of the unit, including the sleeping area, kitchen, bathroom and closet areas, occupies no more than 33 percent of the total floor area, and the living space is not separated from the work space."



In the past, this definition has caused some confusion as to whether the Code's commercial or residential development standards apply.

On November 5, 2004, Chief Zoning Administrator Robert Janovici, since retired, clarified the matter under Case No. ZA 2004-6824 (ZAI). In that interpretation he found that, "...the following provisions of the Code applicable to dwelling units and residential uses shall also apply, in equal fashion, to live/work units: parking and yards, buildable area, floor area and height, density, open space, loading spaces, and mini-shopping centers and commercial corner developments." The basis for Mr. Janovici's finding, in part, was that "live/work units include kitchens and bathrooms, just as dwelling units do. Dwelling units and live/work units are also built, sold, and leased in similar ways."

To provide for parks and recreational facilities the Code includes various provisions that implement the Quimby Act, a state law passed in 1975 (California Government Code §§66477) that authorizes cities and counties to adopt ordinances requiring developers to set aside land, donate conservation easements, or pay in-lieu fees. Revenues generated through the Quimby Act cannot be used for operation and maintenance. The Quimby Act provisions of the Code include Sections 12.33, 17.05-P, 17.07-N, 17.12, and 17.58.

Similar to the issue previously addressed by Mr. Janovici under Case No. ZA 2004-6824 (ZAI), a new issue has been raised as to how the Code's Quimby Act provisions apply to live/work units.

An increasingly popular residential product type, live/work units provide flexibility for the self-employed. Live/work units have helped accommodate the City's growing population, especially in a revitalizing downtown. While to date live/work units have primarily been developed as part of adaptive reuse projects, more and more they are being proposed for new construction projects built from the ground up.

Typically used as primary residences, live/work units create demand for new parks and recreational facilities the same as dwelling units do. Parks and recreational facilities are essential community amenities necessary to promote the public welfare and implement the General Plan. The Quimby Act provides an important and effective mechanism for cities and counties to meet these General Plan objectives. Accordingly, for the same reasons as set forth in Case No. ZA 2004-6824(ZAI), I therefore determine that live/work units, regardless if they are included in adaptive reuse projects or new construction projects, shall be treated no differently than dwelling units for purposes of applying the Quimby Act provisions set forth in the Code, including Sections 12.33, 17.05-P, 17.07-N, 17.12, and 17.58.

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MICHAEL LOGRANDE  
Acting Chief Zoning Administrator  
Telephone No. (213) 978-1318

ML:AB:lmc





# Los Angeles City Planning Commission

200 North Spring Street, Room 532, City Hall, Los Angeles, CA 90012

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November 8, 2007

**CASE NO. ZA-2006-8263-ZAI-1A**

CEQA: N/A

Plan: Citywide

Council Districts: All

Expiration Date: 11-21-07

**Appeal Status: Not further appealable**

Appellant: Thomas Gilmore; Representative: Ketan Tantod  
Applicant: Chief Zoning Administrator, Office of Zoning Administration, City Planning Department

At its meeting of November 8, 2007, the City Planning Commission received a letter of withdrawal (attached) from the appellant, who appealed those parts of the Chief Zoning Administrator's determination, pursuant to Section 12.21-A,2 of the Los Angeles Municipal Code, that include "adaptive reuse projects" in that: 1) regardless if the live/work units are included in adaptive reuse projects or new construction projects, shall be treated no differently than dwelling units for purposes of applying the Quimby Act provisions set forth in the Code, including Sections 12.33, 17.05P, 17.07-N, 17.12, and 17.58; and 2) live/work units, regardless if they are included in adaptive reuse projects, that the in lieu fees or other Quimby Act requirements shall not be pro-rated or otherwise reduced based on the Code's limitation that the residential portion of a live/work unit shall occupy no more than 33 percent of total floor area.

No project was proposed.

The City Planning Commission denied the appeal without prejudice and took the following action:

Moved: Usher  
Seconded: Roschen  
Ayes: Cardoso, Freer, Hughes, Kezios, Woo  
Absent: Kay, Montanez  
Vote: 7-0

  
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Gabrielle Williams, Commission Executive Assistant II  
City Planning Commission

Attachment: November 7, 2007 letter of appeal withdrawal

cc: Case File

MICHAEL LOGRANDE  
CHIEF ZONING ADMINISTRATOR

**ASSOCIATE ZONING ADMINISTRATORS**

GARY BOOHER  
PATRICIA BROWN  
R. NICOLAS BROWN  
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September 21, 2007

**Interested Parties**

Department of Building and Safety

**CASE NO. ZA 2007-3430(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

Sections 12.03, 12.21.1-A,5 and 12.21-G,2(b)(2) of the Los Angeles Municipal Code - Floor Area Ratio and Private Open Space (Balconies and Decks)

**CITYWIDE**

Regardless of its size or shape any balcony or deck or portion thereof, covered or uncovered, shall not also create floor area as defined in Section 12.03 of the Los Angeles Municipal Code, or be included in the computation of a building's floor area ratio pursuant to Section 12.21.1-A,5 of the Code, so long as it: (1) is not recessed but projects beyond the perimeter of the building; (2) remains unenclosed except for the guard rails required by the Building Code; and (3) qualifies as private open space pursuant to Section 12.21-G,2,(b)(2) of the Code.<sup>1</sup>

Section 12.21-A, 2 of the Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

**Background**

On October 10, 2002, the Chief Zoning Administrator and Zoning Engineer issued a joint memorandum (attached) whose topic was a "consideration of projections on a building for the definition of 'height' and 'floor area.'" A key purpose of the memorandum was to clarify when the area under an architectural projection should be counted as floor area for the purpose of computing a building's floor area ratio. The calculation of a building's floor area

<sup>1</sup> Section 12.21-G,2(b)(2) of the Code allows private open space to be provided above the first habitable room level "in developments built at an R3, RAS3, R4, RAS4, and/or R5 density regardless of the underlying zone."



ratio is guided, in part, by the definitions of "building" and "floor area" as set forth in Section 12.03 of the Code:

**Building.** Any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels or property of any kind.

**Floor Area.** Is that area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing building-operating equipment or machinery, parking areas with associated driveways and ramps, space for the landing and storage of helicopters, and basement storage areas.

Section 12.26-A of the Code grants the Los Angeles Department of Building and Safety (LADBS) "the power to enforce the zoning ordinances of the City." In carrying out this responsibility LADBS has developed detailed procedures to ensure compliance with the Code's height district regulations, which restrict the total amount of floor area that can be constructed on any given lot. Specifically, as set forth in the October 10, 2002 joint memorandum referenced above, LADBS has interpreted the Code's definitions of "building" and "floor area" to mean that a deck attached to a building and supported by columns is a part of the building, with the outermost supporting columns defining the building's perimeter. If the perimeter defines an assumed building wall and the deck defines the roof, then the area beneath the deck is considered as "floor area".

A different approach is taken for a cantilever balcony.<sup>2</sup> Here the area beneath a cantilever balcony is not considered as floor area so long as the balcony projects no more than 5 feet beyond the portion of the building providing the support. In cases where the balcony projects more than 5 feet, up to 5 feet of the balcony is not considered part of the building. An assumed building wall is interposed between the portion of the balcony closest to the building and the remaining 5-foot extension. The area beneath the 5-foot extension is not considered as floor area, while the area beneath the projection between the assumed building wall and the actual building wall is. As a further measure against a building owner turning the space beneath a deck, balcony or other architectural projection into usable space an LADBS information bulletin<sup>3</sup> on calculating floor area states that:

"The plan check supervisor shall have the discretion of requiring the recordation of a Covenant and Agreement Regarding Maintenance of Building and identifying areas under projections and specifying that they are not to be used for any occupancy."

## Discussion

LADBS's historical procedures to enforce the Code's height district regulations have been justified as a precaution against the conversion of architectural projections into floor area. It should be noted, however, that these procedures are entirely prospective: they are designed to mitigate the effects of illegal actions that may or may not occur at some point in the future. Unfortunately, these procedures have also had the unintended consequence of creating a disincentive to comply with the Code's private open space provisions for multi-family projects of six or more dwelling units, which went into effect approximately ten years

---

<sup>2</sup> "Cantilever" means supported at a wall or beam/column line pursuant to the October 10, 2002 memorandum issued by the Chief Zoning Administrator and the Zoning Engineer.

<sup>3</sup> Document No. P/BC 2002-021 took effect on May 17, 1979 and was revised on November 1, 2002.



ago.<sup>4</sup> For example, the Code requires that private open space provided in developments built at a density of R3 or greater (regardless of the underlying zone) "have no horizontal dimension less than six feet when measured perpendicular from any point on each of the boundaries of the open space area."<sup>5</sup> Since LADBS excludes no more than 5 feet of a deck or balcony from floor area, many developers are thus placed in a double bind and consequently, the City is receiving more and more requests for reduced open space.

As set forth in Section 12.21-G of the Code, the purpose of the City's open space provisions is to provide opportunities for outdoor living and recreation, to provide safer play areas for children, and to provide a more desirable living environment, all in furtherance of Goal 3C of the General Plan Framework:

"Multi-family neighborhoods that enhance the quality of life for the City's existing and future residents."

A deck or balcony that is not recessed but projects beyond the perimeter of a building is exposed to the elements, and so therefore is not habitable space that intensifies a building's use in the same way that an extra bedroom, bathroom or other habitable room would. A balcony or deck is accessory to the main dwelling unit. In a multi-family residential project it takes the place of a front or back yard. The developer of a multi-family project complying in good faith with the Code's open space provisions should not be penalized for this compliance by having these types of balconies or decks counted against the project's floor area cap.

As noted, supra, over the course of the years, Section 12.21-A,2 of the Code has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances. This Section has also been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane and esoteric nuances obscured within the City's Zoning Regulations.

### Determination

Accordingly, in recognition of modern building practices and to provide a more reasonable balance between LADBS's responsibility to enforce the Code's height district regulations and the Code's provisions concerning private open space in multi-family residential projects, I have determined that regardless of its size or shape any balcony or deck or portion thereof, covered or uncovered, shall not also create floor area as defined in Section 12.03 of the Code, or be included in the computation of a building's floor area ratio pursuant to Section 12.21.1-A,5 of the Code, so long as it:

- (1) is not recessed but projects beyond the perimeter of the building;
- (2) remains unenclosed except for the guard rails required by the Building Code; and
- (3) qualifies as private open space pursuant to Section 12.21-G,2(b)(2) of the Code.

---

<sup>4</sup> Ord. No. 171,753 took effect on November 17, 1997.

<sup>5</sup> Section 12.21-G,2(b)(2)(ii) of the Code.



To qualify as private open space the balcony or deck must contain a minimum of 50 square feet as set forth in sub-subparagraph (i) and also meet the requirements set forth in sub-subparagraphs (ii), (iii), and (iv) concerning horizontal dimensions, vertical clearances, and projections, respectively. While sub-subparagraph (i) further limits to 50 square feet per dwelling unit the amount of private open space that may count toward a project's total open space requirement, all qualifying private open space that a project provides shall benefit from this interpretation. For example, if a project provides 10,000 square feet of qualifying private open space but only 5,000 square feet may count toward the total open space requirement the entire 10,000 square feet shall still benefit from this interpretation.

For purposes of this interpretation the perimeter of a building shall follow the exterior walls (and not any supporting columns or posts), except as modified by the following rules:

- Rule #1. When a continuous straight line can be drawn across the unenclosed side of a recessed balcony or deck then the perimeter shall follow that line and not the exterior walls. The recessed portion shall be considered part of the building and thus assumed to create floor area.
- Rule #2. If the angle created by the two exterior walls that border a corner balcony or deck is at least 90 degrees then the perimeter shall follow the exterior walls. The projecting portion shall not be considered part of the building and thus assumed to not create floor area. If the angle is less than 90 degrees or the balcony or deck is bordered by a single curving wall then rule #1 above shall apply.

The attached diagrams are a part of this interpretation. In order for this interpretation to apply to a particular project a "Covenant and Agreement Regarding Maintenance of Building" must be approved by LADBS and recorded with the Los Angeles County Recorder. The Covenant and Agreement must state that the balcony or deck must remain unenclosed except for the guard rails required by the Building Code and that the area beneath shall not be used for any occupancy.

### **Wing Walls and Privacy Screens**

Wing walls that exceed 42 inches in height that divide a single deck or balcony shared by two or more residential units shall be considered exterior walls for determining which portion of the deck or balcony is recessed and thus must be included in floor area. If no more than 42 inches in height then the wing walls shall be considered guard rails and not exterior walls. Privacy screens regardless of height shall not be considered exterior walls. A wing wall is a wall perpendicular to an exterior wall that provides structural support to a building. A privacy screen is a decorative feature fastened to a building but that does not provide structural support.

### **October 10, 2002 Memorandum**

This interpretation shall only apply to multi-family residential developments of six or more units built at an R3 or above density regardless of the underlying zone. In all other instances the rules set forth in the attached memorandum issued by the Chief Zoning Administrator and the Zoning Engineer on October 10, 2002 shall apply. A project may not benefit from both this interpretation and the October 10, 2002 memorandum. Only one set of rules shall be applied to a project.

**APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after OCTOBER 9, 2007, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted.

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MICHAEL LOGRANDE  
Chief Zoning Administrator  
Telephone No. (213) 978-1318

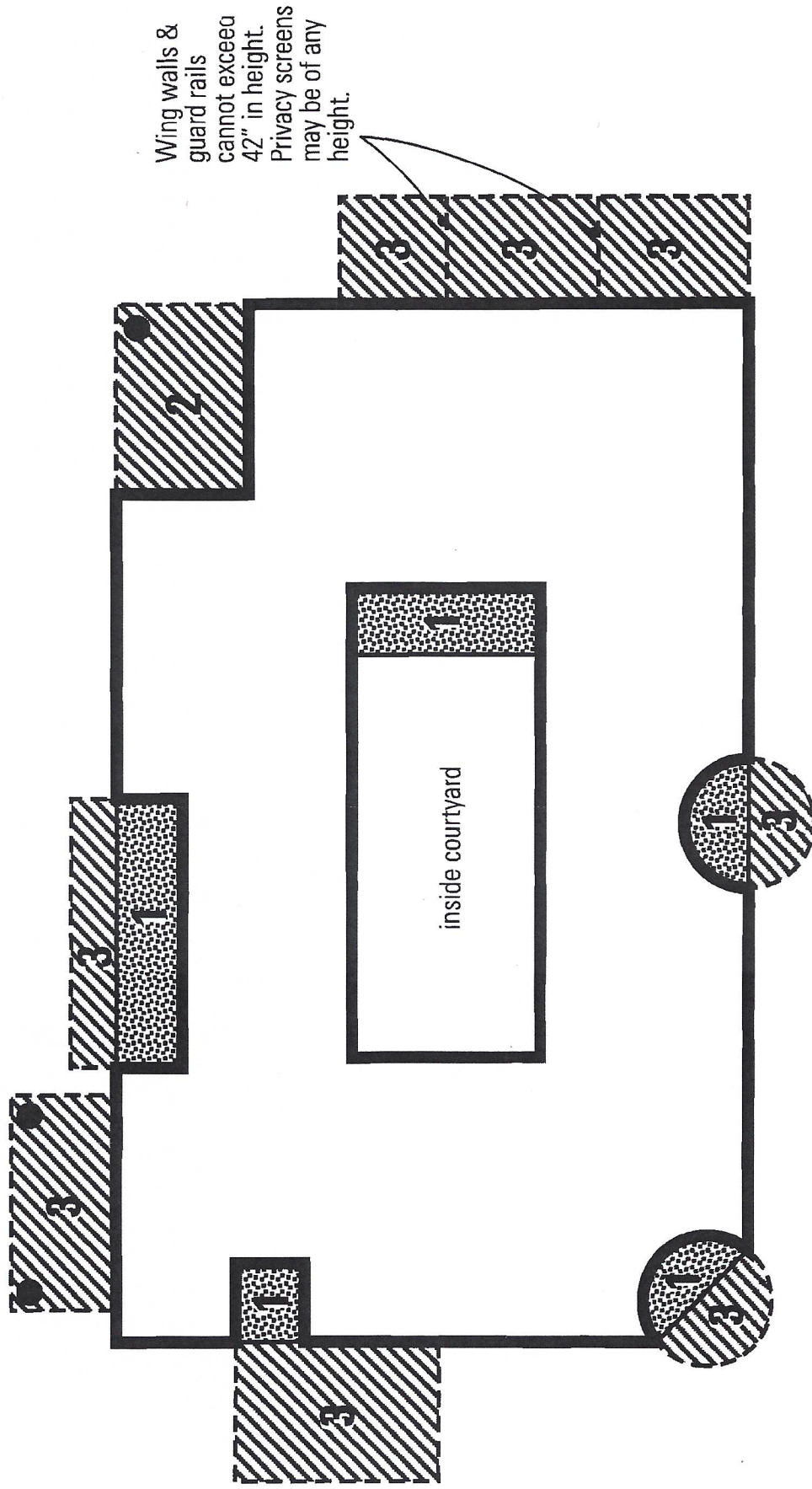
ML:AB:lmc

**Attachments:**

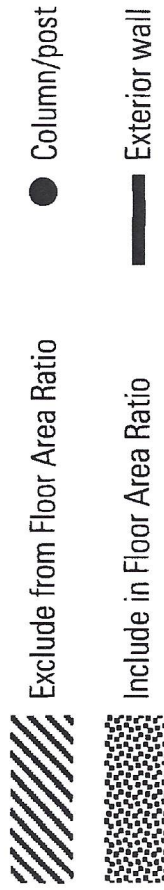
1. Diagram "A"
2. Diagram "B"
3. Memorandum issued by the Chief Zoning Administrator and the Zoning Engineer dated October 10, 2002



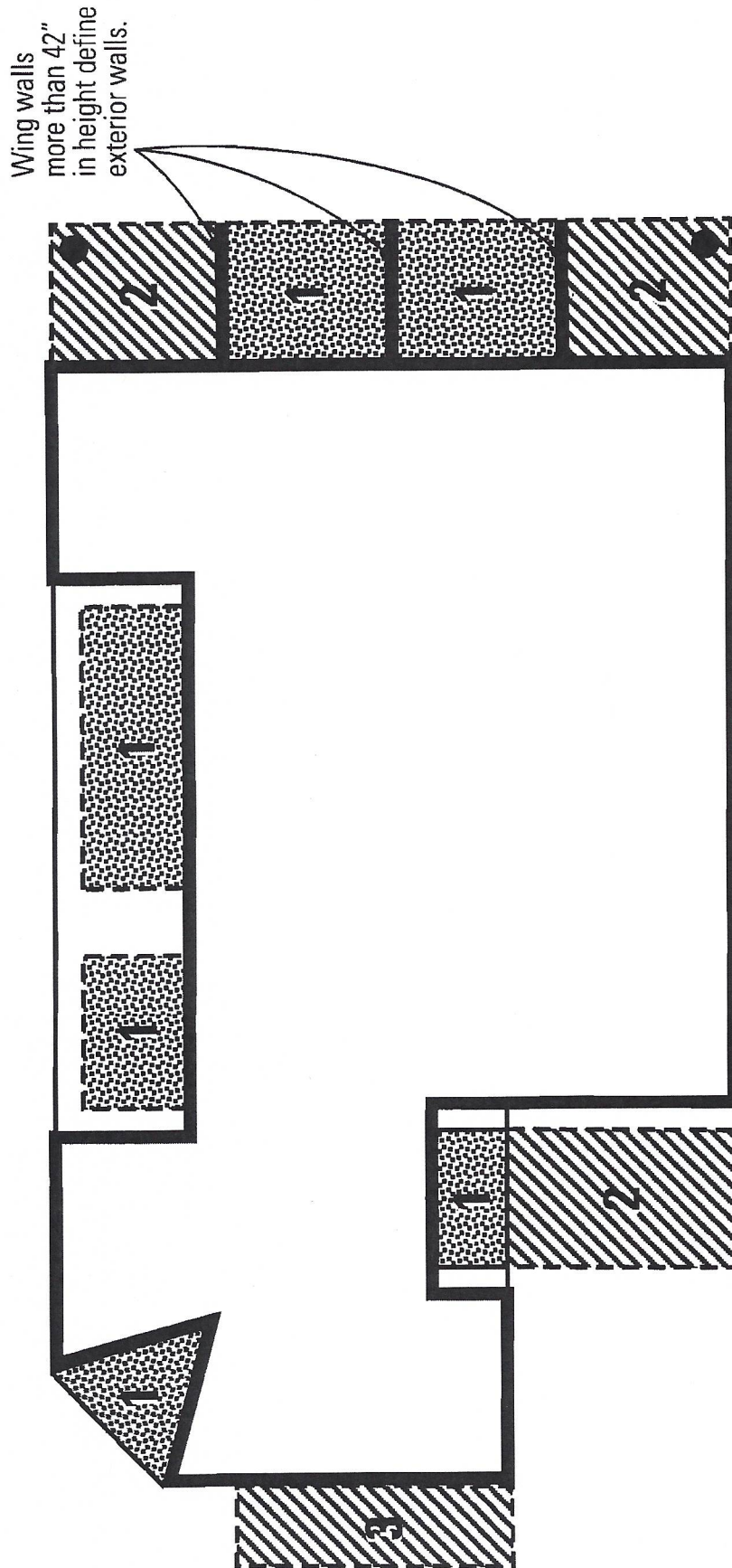
**Case No. ZA 2007-3430 (ZAI) - Floor Area Ratio and Private Open Space (Balconies and Decks)**  
**Diagram "A"**



- 1** Rule #1 applies
- 2** Rule #2 applies
- 3** Projects beyond perimeter of the building, so is excluded from Floor Area Ratio



# **Case No. ZA 2007-3430 (ZAI) - Floor Area Ratio and Private Open Space (Balconies and Decks)** **Diagram "B"**



- 1** Rule #1 applies
- 2** Rule #2 applies
- 3** Projects beyond perimeter of the building, so is excluded from Floor Area Ratio

● Column/post  
 — Exterior wall

Exclude from Floor Area Ratio  
 Include in Floor Area Ratio





TAILGATE DATE: 11/11/2002  
BUREAU: Engineering  
CODE SECTION:  
CATEGORY: Tailgate Training

DATE: 10/10/2002  
TO: Department of City Planning, Office of Zoning Administration Staff  
Department of Building and Safety, Plan Check and Inspection Staff  
FROM: Robert Janovici, Chief Zoning Administrator  
Peter Kim, Zoning Engineer  
SUBJECT: CONSIDERATION OF PROJECTIONS ON A BUILDING FOR THE DEFINITION  
OF "HEIGHT" AND "FLOOR AREA"

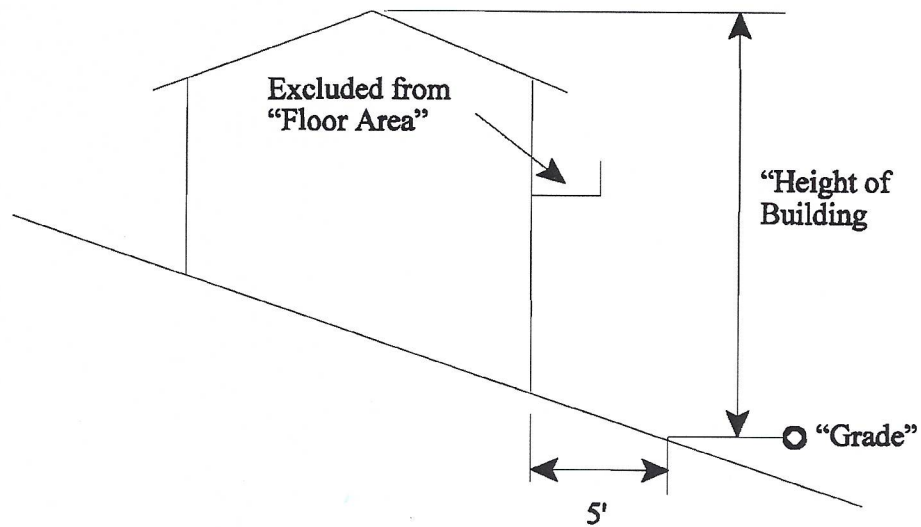
The terms "Height of Building or Structure" and "Floor Area" are defined in Section 12.03 of the Zoning Code. Specifically, "Height of Building or Structure" is defined, in part, as "... the vertical distance above **grade** measured to the highest ... " The term "Grade (Adjacent Ground Elevation)" is further defined, in part, as "... lowest point of elevation of ... between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the **building**." Similarly, "Floor Area" is defined, in part, as "...confined within the exterior walls of a **building**..."

The term "Building" is then defined as "Any structure having a roof **supported by columns or walls**, for the housing, shelter, or enclosure of persons, animals, chattels or property of any kind." Thus, if there are any exterior walls or columns on a structure, that wall and/or columns defines the perimeter of a building. For example, attached decks which are supported by columns are considered to be part of the building and therefore the outermost supporting columns of the deck are considered to be the perimeter of the building.

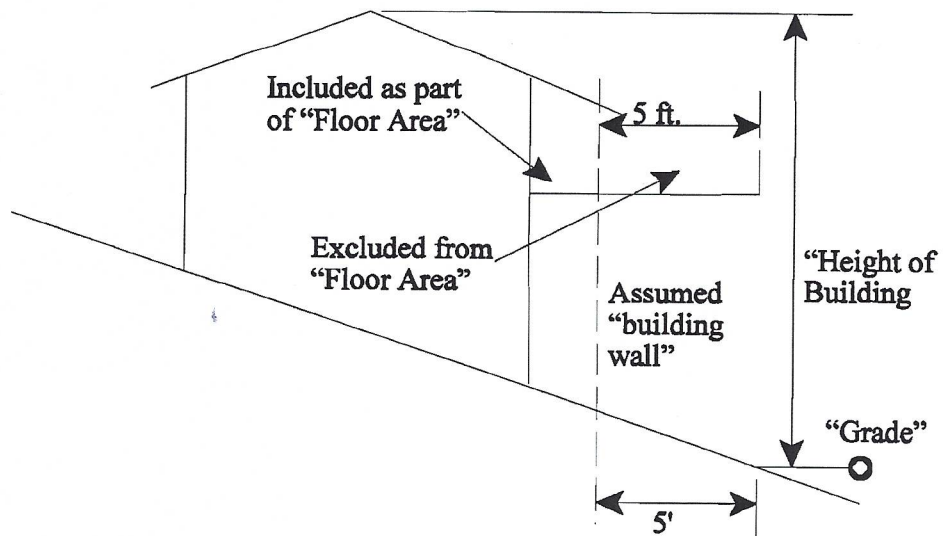
There are some instances in which there are no supporting walls or columns under certain elements of a building. For example a "cantilever balcony" is supported at a wall or beam/column line at some distance from the edge of the balcony. The "Projection" is not defined in the Zoning Code. However, historically, up to 5 feet of cantilever projection was allowed without it being considered as part of a "building". For many years, the Building Code allowed up to 5 feet of projection beyond a building line without having it be considered as part of the floor area.

Thus, when determining "height" or "floor area" of a building, any **open, unenclosed, cantilever** balconies, not exceeding 5 feet beyond the support, are not to be included in the definition of a building. In cases in which balconies exceed 5 feet, up to 5 feet of the balconies may be excluded from the definition of the building. See the attached sketches for illustrations. The first sketch illustrates a case in which a projection does not exceed 5 feet. The second sketch illustrates a case in which a projection exceeds 5 feet. This interpretation is limited to only those balconies with no enclosures on three sides except for the guardrails required by the building code.

## Projection less than 5 ft.



## Projection more than 5 ft.





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April 3, 2008

Public Counters

All Interested Parties

**CASE NO. ZA 2008-1250(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

Section 19.03 of the Los Angeles  
Municipal Code – Filing Fees –  
Zone or Height District Changes

CITYWIDE

Notwithstanding the repeal of Section 11.5.8 of the Los Angeles Municipal Code, the filing fees set forth in Section 19.03 of the Code shall be charged and collected when applications for zone or height district changes are filed and it is determined that the general plan must be amended to comply with Section 65860 (d) of the California Government Code.

Section 12.21-A,2 of the Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

**Discussion**

On December 18, 2005, Ordinance No. 177,103 went into effect. This ordinance enacted various technical corrections, including the repeal of Section 11.5.8 of the Municipal Code concerning "Periodic Comprehensive General Plan Review."

In California, a local government's zoning ordinances and its general plan must be consistent. Government Code Section 65803 exempts charter cities (of which Los Angeles is one) from this requirement. Notwithstanding this provision, Section 65860 (d) requires "a

charter city of 2,000,000 or more population" to maintain consistency between its zoning ordinances and its general plan. Los Angeles is the only charter city in California currently subject to Section 65860 (d).

To comply with Section 65860 (d) the Planning Department carried out, for many years, a focused, comprehensive zoning consistency program. Given the size of Los Angeles and the many inconsistencies that were found between the general plan and the underlying zoning, the program was necessarily expensive and large in scale. Many full-time staff persons were dedicated to the effort.

To administer this unprecedented program, Section 11.5.8 was enacted, along with a companion provision, Section 19.03. Section 11.5.8 established detailed procedures and Section 19.03 established filing fees, and included a cross-reference to Section 11.5.8.

After the zoning consistency program was completed, Ordinance No. 177,103 repealed Section 11.5.8. In recognition of its continuing obligation under state law the City did not, however, repeal Section 19.03.

Ordinance No. 177,103 should have changed the cross-reference in Section 19.03 to Section 11.5.6, which outlines the City's procedures for maintaining and amending its general plan.

Failure to change the cross-reference was merely a technical error. It did not signal the City's intent to abandon its obligation to maintain consistency between its zoning ordinances and its general plan.

### **Determination**

In light of the above, and notwithstanding the repeal of Section 11.5.8, the filing fees set forth in Section 19.03 shall be charged and collected when applications for zone or height district changes are filed and it is determined that the general plan must be amended to comply with Government Code Section 65860 (d). The public counters are therefore instructed to charge and collect the filing fees set forth in Section 19.03.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.

### **Procedure**

As provided by Charter Section 555, only the Director of Planning, City Planning Commission or City Council may initiate an amendment to the general plan. Accordingly, if a proposed zone or height district change would trigger an inconsistency with the general plan, the applicant should request the Director of Planning, City Planning Commission, or City Council to initiate the appropriate amendment to the general plan on his or her behalf. If the applicant fails to make this request and does not pay the corresponding filing fees set forth in Section 19.03, then the zone or height district change will not be processed, since any zone or height district change inconsistent with the City's general plan would violate Section 65860 (d) and would therefore not be legal.



This procedure shall also apply to proposed zone or height district changes that have already been filed with the Planning Department but that have not yet been acted upon by the assigned decision-making authority.

**APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after APRIL 18, 2008, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted.

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If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.



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June 23, 2008

**Interested Parties**

**CASE NO. ZA 2007-5927(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

Section 12.24-W,1 of the Los Angeles  
Municipal Code - Alcoholic Beverages -  
R5 or Other Zoning That is Not C or M

**CITYWIDE**

Applications for a conditional use permit pursuant to Section 12.24-W,1 of the Los Angeles Municipal Code for the sale or dispensing for consideration of alcoholic beverages, including beer and wine, for consumption on the premises or off-site of the premises, may be filed for establishments with R5 or other zoning that is not C or M, if due to an exception or other regulatory provision C or M Zone uses are permitted by right in that zone.

Section 12.21-A,2 of the Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed....The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it appears to a specific property or situation....The Zoning Administrator shall also have authority to adopt general interpretations determining the proper application of the yard regulations to groups of lots located in hillside districts or affected by common problems."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

**Background**

Section 12.24-W,1 of the Code authorizes the Zoning Administrator, upon application, to grant a conditional use permit for "the sale or dispensing for consideration of alcoholic beverages, including beer and wine, for consumption on the premises or off-site of the premises in the CR, C1, C1.5, C2, C4, C5, CM, MR1, MR2, M1, M2 and M3 Zones...."



Section 12.22-A,18(b) of the Code provides an exception to encourage mixed use development in the R5 Zone in downtown Los Angeles:

"18. Developments Combining Residential and Commercial Uses. Except where the provisions of Section 12.24.1 of this Code apply, notwithstanding any other provision of this chapter to the contrary, the following uses shall be permitted in the following zones subject to the following limitations: (Amended by Ord. No. 163,679, Eff. 7/18/88.)

(b) (Amended by Ord. No. 173,754, Eff. 3/5/01.) Any use permitted in the CR, C1, C1.5, C2, C4 or C5 Zones on any lot in the R5 Zone provided that the lot is located within a Central City Community Plan Area. Any combination of these commercial and residential uses shall also be permitted on the lot. Commercial uses or any combination of commercial and residential use may be permitted on any lot in the R5 Zone by conditional use pursuant to Section 12.24W15 in other redevelopment project areas approved by the City Council."

Along these same lines, many properties in the Hollywood Community Plan area are zoned [Q]R5, with the [Q] conditions typically reading:

1. "Any use permitted in the C1 Zone within buildings which were in existence on the lot upon the effective date of this ordinance.
2. "Any other use permitted in the C1 Zone provided that the floor area ratio...."

In addition, many properties in the Central City Community Plan area are zoned [Q]R5, with the [Q] conditions typically reading:

1. "Any other uses permitted in the C4 Zone within buildings which were in existence on the lot upon the effective date of this ordinance.
2. "Any other use permitted in the C4 Zone provided the floor area ratio of such use does not exceed 2:1.
3. "Any other use permitted in the C4 Zone, including commercial uses with a floor area ratio from 2:1 to 6:1, provided the development plan is approved pursuant to the following procedure...."

The practical effect of the provisions cited above is to create in downtown Los Angeles and Hollywood mixed use districts that, while zoned R5, in fact allow a variety of commercial, institutional, and residential uses by right. In recent years new growth and development have focused in these areas of the City, with increasing demand for entertainment, fine dining and other establishments that sell or dispense alcohol. Consequently, a question has been raised as to whether applications may be properly filed under Section 12.24-W,1 for establishments with R5 or other zoning that is not C or M, but where due to an exception or other regulatory provision C or M Zone uses are permitted by right in that zone.

## Discussion

As discussed below, the following community and redevelopment plans envision the creation of residential districts supported by commercial uses.

During the AB283 Zoning Consistency process, in accordance with California Government Code Section 65860(d) and the Superior Court Settlement Agreement, where the City's zoning designations were brought into consistency with the Plan designations, certain areas in the Hollywood and Central City Plan areas were targeted for mixed uses. These properties were zoned [Q]R5, with the specific [Q] condition allowing commercial uses.

The Hollywood Community Plan revision process recommended the zoning designation of [Q]R5, with a recommendation that a footnote be added to the Community Plan as follows: "This Plan contemplates that certain commercial uses may be allowed on properties designated high density housing...commercial uses should be limited to those permitted in the C1 Zone...Whenever possible commercial uses should be located at street level, with residential uses on the upper floors." On December 13, 1988, the City Council adopted a resolution adopting the new Hollywood Community Plan, with Footnote No. 13 restating the above text.

Similarly, the Central City Community Plan revision process recommended the zoning designation of [Q]R5 with a similar recommendation for a Plan Footnote. On February 12, 1988, the City Council adopted a resolution adopting the new Hollywood Community Plan, with Footnote No. 10 restating the above text.

The Land Use—Commerce section of the Hollywood Community Plan states that "the Plan encourages the retention of neighborhood convenience clusters offering retail and service establishments oriented to pedestrians."

Goal No. 10 of the Hollywood Redevelopment Project Plan is to "promote the development of sound residential neighborhoods through...support services necessary to enable residents to live and work in Hollywood."

Residential Policy No. 1-1.1 of the Central City Community Plan is to "maintain zoning standards that clearly promote housing and limit ancillary commercial to that which meets the needs of neighborhood residents or is compatible with residential uses." Open Space and Recreation Policy No. 4-4.1 is to "Improve Downtown's pedestrian environment in recognition of its important role in the efficiency of Downtown's transportation and circulation systems and in the quality of life for its residents, workers, and visitors."

All of the preceding goals and policies clearly envision the provision of neighborhood-serving commercial services for residential neighborhoods. Provision of establishments that serve alcohol is advantageous in that they provide neighborhood meeting spots in dense residential neighborhoods, and also contribute to the economic viability of restaurants.

The "Design Out Crime" Guidelines, adopted by the City Council on June 23, 1995, recommends natural surveillance as a crime prevention strategy: "Provide a good visual



connection between residential and/or commercial units and public environments such as streets...[and] sidewalks...Take advantage of mixed use...This may enable natural surveillance during the day and evening (i.e., a commercial zone which becomes vacant in the evening or a residential zone which is uninhabited during the day.)"

The Framework Element, adopted by the City Council on December 11, 1996, continues the concern with crime prevention and role of mixed uses. Policy 5.2.2 states: "Encourage the development of centers, districts...such that the land uses...within these areas allow them to function as centers...both in daytime and nighttime uses." Additionally, Policy 5.9.2 states: "Encourage mixed-use development which provides for activity and natural surveillance after commercial business hours through the development of ground floor retail uses and sidewalk cafes."

The Housing Element, adopted by the City Council on December 18, 2001, contains Policy 2.1.3, which states: "Encourage mixed use development which provides for activity and natural surveillance after commercial business hours."

The guidelines and General Plan elements discussed above clearly contemplate mixed use, and the role of mixed use in contributing to a safer City.

### **Conclusion**

Over the last few years, as residential developments have proliferated in Hollywood and the Central City area, the ground floors of the buildings have typically developed into commercial uses, and especially restaurants and bars. However, conditional use permits for the serving of alcohol are not available in the R5 Zone, but only in the C or M Zones. This restriction works against the goals of the [Q]s placed on the R5 Zones, which allow commercial uses, and against the goals and policies of the Community Plans and the Citywide Guidelines and Elements. The restriction also works against the provisions of Section 12.22-A,18, which allows commercial uses in the R5 Zone in the Central City Community Plan area.

Based on the foregoing analysis, a reasonable resolution of the ambiguous filing status of establishments with R5 or other zoning that is not C or M, but where C or M Zone uses are permitted by right in that zone due to an exception or other regulatory provision, is to allow such establishments to file a conditional use under Section 12.24-W,1 rather than requiring them to file for a zone variance.

### **Determination**

Accordingly, in recognition of the increasing development of mixed uses in the City, the goals of the [Q]R5 zoning, the provisions of Section 12.22-A,18(b) of the Code, and the goals and policies of the Community Plans and the Citywide Guidelines and Elements, I determine that applications for conditional use permits under Section 12.24-W,1 of the Code may be filed for establishments with R5 or other zoning that is not C or M, if due to an exception or other regulatory provision C or M zone uses are permitted by right in that zone.

This ZAI does not supersede the provisions of any specific plans.

**APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after JULY 8, 2008, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted.

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December 19, 2008

Department of Building and Safety

Public Counters

All Interested Parties

CASE NO. ZA 2008-4888(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Section 16.10 of the Los Angeles  
Municipal Code - Green Building  
Program

CITYWIDE

The addition to any existing building or structure that meets the threshold criteria set forth in Sections 16.10-B,1, 16.10-B,2 or 16.10-B,3 of the Los Angeles Municipal Code is subject to the Green Building Program, as set forth in Section 16.10 of the Code.

Section 12.21-A,2 of the Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

**Discussion**

In another step toward creating a more livable city, the Green Building Program was signed by the Mayor on Earth Day, April 22, 2008. On May 29, 2008, the Green Building Program, Ordinance No. 179,820, went into effect. The ordinance established a requirement to incorporate green building practices into projects that meet certain threshold criteria. The green building practices are tied to the Leadership in Energy and Environmental Design (LEED®) system established by the US Green Building Council (USGBC).

The Department of Building and Safety, which under Code Section 12.26-A has "the power to enforce the zoning ordinances of the city", has requested a determination as to whether the ordinance applies to an addition to a building.

Section 16.10-C,5 of the Code, Green Building Program definitions, defines a project as:

"5. The construction of, addition to, or alteration of any building or structure that requires a building permit and meets the criteria established in Subsection B of this section."

Thus, the use of the term project throughout the ordinance clearly includes the addition to any building or structure.

Section 16.10-B of the Code, Building Permit Review, specifies the categories of projects that are subject to the Green Building Program. Section 16.10-B states the following:

"B. Building Permit Review. No building permit shall be issued for the following categories of Projects unless the Project meets the intent of the criteria for certification pursuant to Subsections D or E of this section as determined by the Department of City Planning.

1. A new non-residential building, or structure of 50,000 gross square feet or more of floor area; or
2. A new mixed use or residential building of 50,000 gross square feet or more of floor area in excess of six stories; or
3. A new mixed use, or residential building of six or fewer stories consisting of at least 50 dwelling units in a building, which has at least 50,000 gross square feet of floor area, and in which at least 80 percent of the building's floor area is dedicated to residential uses; or
4. The alteration or rehabilitation of 50,000 gross square feet or more of floor area in an existing building for which construction costs exceed a valuation of 50 percent of the replacement cost of the existing building; or
5. The alteration of at least 50 dwelling units in an existing building, which has at least 50,000 gross square feet of floor area, for which construction costs exceed a valuation of 50 percent of the replacement cost of the existing building."

Council adopted Ordinance No. 179,820 with the clear intent that an addition to any existing building or structure that meets the threshold criteria set forth in Sections 16.10-B,1, 16.10-B,2 or 16.10-B,3 of the Code is subject to the Green Building Program.

Further, these provisions do not specify that the new building or structure must be a completely new, stand-alone building or structure. These provisions contemplated new structures that could be additions to existing structures as well as 100% new structures.



It is therefore reasonable and logical that projects, as defined in the definitions section of Ordinance No. 179,820, include additions to buildings that meet the threshold criteria of Sections 16.10-B,1-3 for purposes of the Green Building Program.

### **Determination**

For the reasons set forth above, I find that: The addition to any existing building or structure that meets the threshold criteria set forth in Sections 16.10-B,1, 16.10-B,2 or 16.10-B,3 of the Code is subject to the Green Building Program, as set forth in Section 16.10 of the Code.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.

### **APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after JANUARY 5, 2009, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at www.lacity.org/pln.** Public offices are located at:

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May 6, 2010

Public Counter  
Department of Building and Safety  
Office of the City Clerk  
All Interested Parties

CASE NO. ZA 2010-0977(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Chapter I of the Los Angeles Municipal  
Code – Medical Marijuana Collectives

CITYWIDE

On January 26, 2010, the City Council adopted Ordinance No. 181,069, amending Chapter IV of the Los Angeles Municipal Code (Public Welfare Code) regulating Medical Marijuana Collectives. LAMC Section 45.19.6.3.A.1 requires Medical Marijuana Collectives to comply with the provisions of Chapter I of the Los Angeles Municipal Code (Zoning Code). This ZAI clarifies the applicability of Chapter I to such Collectives. This ZAI also establishes that a Medical Marijuana Collective is an allowed use of land in all zones provided it complies with State law and the location, distance and other requirements of Chapter 5.1 as well as all applicable provisions of the Zoning Code, as clarified herein.

Section 12.21-A, 2 of the Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

## Discussion

The establishment and operation of Medical Marijuana Collectives are regulated both by State and Local laws. The City Council adopted Ordinance No. 181,069 which amends Chapter IV of the Los Angeles Municipal Code (commencing with Section 45.19.6) by adding new provisions in Article 5.1 titled: Medical Marijuana Collectives.





Permitted Use and Zones. The Zoning Code is permissive. Only the uses specifically enumerated either in the Code or the Official Use List [Case No. ZA 2003-4842(ZAI)] are permitted. All other uses are prohibited. By adopting Ordinance No. 181,069, Council intended to permit Medical Marijuana Collectives, in furtherance of the Compassionate Use Act and to promote the public safety through appropriate location, distance and other requirements. Based on Council's action, I find that such Collectives are now a permitted use of land in any zone in the City of Los Angeles, so long as these Collectives comply with State law, the regulations set forth in Ordinance No. 181,069, and all applicable provisions of the Zoning Code.

Relief. Medical Marijuana Collectives may apply for relief from those provisions of the Zoning Code, such as parking, that apply to them. Medical Marijuana Collectives may not apply for relief from the regulations set forth in Ordinance No. 181,069.

Parking. Medical Marijuana Collectives operate in a way that is similar to medical offices and clinics and therefore generate the same demand for parking. Accordingly, pursuant to LAMC Section 12.21-A,4(d)(3), Medical Marijuana Collectives shall provide parking at a ratio of one parking space per 200 square feet of floor area. For purposes of applying the parking ratio, the floor area of the Medical Marijuana Collective must include the areas dedicated to all activities of the collective, such as cultivation, storage, packaging, dispensing, etc. The parking requirement for retail establishments, including pharmacies (LAMC Section 12.21-A,4(d)(5)) cannot be applied to Medical Marijuana Collectives because they are expressly prohibited to operate as retail establishments as provided by LAMC Section 45.19.6.4.

Relationship to Other Land Use Regulations. As stated in part in LAMC Chapter IV, Section 45.19.6 (Purposes and Intent), "... medical marijuana collectives shall comply with all provisions of the Los Angeles Municipal Code ("Code"), State Law, and all other applicable local and state laws. Nothing in this article purports to permit activities that are otherwise illegal under state or local law." Medical Marijuana Collectives are thus subject to all applicable regulations contained in the Zoning Code and any other applicable land use regulations, such as Specific Plans, Community Design Overlay Districts, Historic Preservation Overlay Districts, as well as design guidelines. Should there be a conflict between the requirements of Article 5.1 of the LAMC, Public Welfare Code and land use regulations, including design standards, the provisions of Article 5.1 shall prevail.

Nuisance Abatement: LAMC Section 11.00(n) states in part: " Pursuant to Government Code Section 38773, the City may summarily abate any nuisance at the expense of the persons creating, causing, committing, or maintaining it and the expense of the abatement of the nuisance may be a lien against the property on which it is maintained and a personal obligation against the property owner."

Therefore, should Medical Marijuana Collectives become a nuisance and adversely affect the public peace, health and safety of persons residing or working in the collective's surrounding area, Administrative Nuisance Abatement proceedings, pursuant to LAMC Section 12.27.1, may be undertaken.



Nonconforming Provisions: LAMC Section 45.19.6.2, "Registration" states that a medical marijuana collective, dispensary, operator, establishment, or provider that registered pursuant to Interim Control Ordinance No. 179,027 with the City Clerk's office before November 12, 2007 (and subject to certain other specified limitations) may be "eligible to register and operate if it immediately complies with all provisions of State law, and within 180 days after the effective date of this ordinance completes its compliance in full with each provision of this article."

In light of this provision, a question has been raised as to whether LAMC Section 12.23 concerning nonconforming buildings and uses confers nonconforming status on a collective, dispensary, operator, establishment, or provider just by virtue of having registered with the City Clerk before November 12, 2007, in accordance with Ordinance No. 179,027, or that otherwise existed before the operative date of Ordinance No. 181,069.

As set forth in LAMC Section 12.23-C, the Council has established unique nonconforming rules for signs; oil wells; commercial animal keeping; automobile dismantling yards, junk yards, and related uses; nonconforming hostels and transient occupancy residential structures; and equine nonconforming uses adjacent to residential buildings. In each case, the unique rules reflected the Council's legislative judgment and priority. In the same vein, the City Council adopted regulations (Ord. No. 181,069) for the establishment and operations of Medical Marijuana Collectives on January 26, 2010. However, no unique nonconforming rules have been established for Medical Marijuana Collectives. Therefore, a Medical Marijuana Collective established prior to the enactment of the ordinance cannot claim nonconforming status as to use.

### **Determination**

Accordingly, I hereby determine that:

1. Zones and Use. Medical Marijuana Collectives are permitted in any zone, subject to all applicable provisions of State law, the Zoning Code and Ordinance No. 181,069.
2. Parking. Parking shall be provided at a ratio of one (1) parking space per 200 square feet of floor area, as provided in LAMC Section 12.21-A,4(d)(3).
3. Development Standards. All development standards, including but not limited to setbacks, yards, height, and floor area of the zone in which the Medical Marijuana Collective is located shall be complied with.
4. Relationship to Other Land Use Regulations. Medical Marijuana Collectives are subject to all applicable regulations contained in the Zoning Code and any other applicable land use regulations, including design guidelines, such as Specific Plans, Community Design Overlay Districts, Historic Preservation Overlay Districts, etc. Should there be a conflict between the requirements of Article 5.1 of the LAMC and a land use regulation, the provisions of Article 5.1 shall prevail.
5. Relief. All relief mechanisms available to applicants in Chapter One (Planning and Zoning Code) of the LAMC, such as a variance, adjustment, interpretation, etc., can



be utilized by applicants for Medical Marijuana Collectives to obtain relief from zoning provisions or any other applicable land use regulations exclusively. No relief is provided from the provisions of LAMC Article 5.1.

6. Nuisance Abatement: Medical Marijuana Collectives are subject to Administrative Nuisance Abatement, pursuant to LAMC Section 12.21.1.
7. Nonconforming Provisions. LAMC Section 12.23 - nonconforming rights are not applicable to Medical Marijuana Collectives.

#### **APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after MAY 21, 2010, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

Figueroa Plaza  
201 North Figueroa Street,  
4th Floor  
Los Angeles, CA 90012  
(213) 482-7077

Marvin Braude San Fernando  
Valley Constituent Service Center  
6262 Van Nuys Boulevard, Room 251  
Van Nuys, CA 91401  
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.



MICHAEL LOGRANDE  
Chief Zoning Administrator  
Telephone No. (213) 978-1318

ML:AB:HB:lmc

LINN K. WYATT  
ACTING CHIEF ZONING ADMINISTRATOR  
ASSOCIATE ZONING ADMINISTRATORS  
R. NICOLAS BROWN  
SUE CHANG  
LOURDES GREEN  
MAYA E. ZAITZEVSKY



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DEPARTMENT OF  
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October 7, 2010

Public Counters  
Department of Building and Safety  
All Interested Parties

CASE NO. ZA 2010-2713(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Section 12.21-A,4(c) of the Los Angeles  
Municipal Code – Commercial and  
Industrial Building Off-Street Automobile  
Parking Requirements

CITYWIDE

Shade structures in parks shall not be considered buildings or patios when calculating the floor area per the Zoning Code Requirements, and therefore such structures shall not require any parking spaces.

Section 12.21-A, 2 of the Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

### Background

The Department of Recreation and Parks includes shade structures in park design to protect both the public health of occupants in public spaces as well as play and recreation equipment. Installing shade structures in outdoor areas where people congregate, such as over picnic tables and pool deck areas, mitigates occupant risk for heatstroke, heat exhaustion, sunburn, and other related ailments. Shade structures also protect the materials below, such as park benches and play equipment for children, thus increasing user comfort and prolonging the life of the material.

The industry standard for a high quality sun shade is one that is constructed of a permeable high density polyethylene mesh, but other similar materials may be used. The shade cloth



fabric must be non-flammable and approved by the Los Angeles Fire Department. The shade cloth is supported on poles. Shade structures are fully engineered to meet local building codes and are intended to be permanent fixtures.

A question has been raised as to whether a shade structure is a building, a patio with a roof, or neither. This is of importance because the area below buildings and patios with a roof is included in the floor area calculation, and this area requires parking spaces.

According to Section 12.03, floor area is defined, in part, as:

"FLOOR AREA. The area in square feet confined within the exterior walls of a building..."

Typically, area under buildings and patios with a roof is included in the floor area calculation. Area within the exterior walls of a building is considered floor area by definition. A building is defined, in part, as "any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels or property of any kind..." Patios with a roof are considered buildings and therefore such structures are also included in the floor area calculation by definition.

Floor area is then used as the metric for determining the number of required parking spaces. For example, as seen in Section 12.21-A.4(c):

(c) For Commercial and Industrial Buildings. Except as otherwise provided in Subparagraphs (1) through and including (7) below, there shall be at least one automobile parking space for each 500 square feet of combined floor area contained within all the office, business, commercial, research and development buildings, and manufacturing or industrial buildings on any lot.

### **Interpretation**

Shade structures in parks shall not be considered buildings or patios when calculating the floor area per the Zoning Code Requirements, and therefore such structures shall not require any parking spaces.

Shade structures are auxiliary to the main use of a park. Shade structures do not generate additional vehicular trips, as the public does not patron the park due to them. Therefore, the installation of a shade structure does not create a need for additional parking.

### **APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after October 22, 2010, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>.** Public offices are located at:

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LINN K. WYATT  
Acting Chief Zoning Administrator  
Direct Telephone No.: (213) 978-1318

LKW:AB:Imc



CITY OF LOS ANGELES  
CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

ROBERT JANOVICI  
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HORACE E. TRAMEL, JR.

DEPARTMENT OF  
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ROOM 600, CITY HALL  
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(213) 485-3851

January 25, 1994

Re: CASE NO. ZA 94-0014(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - NO TIME  
LIMIT ON 750 SQUARE-FOOT  
EXCEPTION FROM HILLSIDE  
ORDINANCE NO. 168,159

The "Hillside Ordinance" (No. 168,159) contains the following exception (Los Angeles Municipal Code Section 12.21-A, 17(i)(5)), which reads:

" . . . . .

(5) Any addition to an existing one-family dwelling, so long as the total cumulative floor area of all additions made after August 30, 1992, does not exceed 750 square feet and the height of the addition does not exceed the height of the existing building or the height permitted in Subdivision 17, whichever is higher. Floor area devoted to required parking and the floor area of additions shall be excluded from calculations of this 750 square-foot limitation, so long as these areas were constructed pursuant to a building permit for which (i) plans sufficient for a complete plan check were accepted by the Department of Building and Safety on or before August 30, 1992; and (ii) the plan check fee was paid on or before August 30, 1992. However, this exemption shall only apply if at least two off-street parking spaces are provided. Further, any building permit issued pursuant to this exception shall become invalid if construction pursuant to that building permit has not commenced by February 28, 1994."

Because of the somewhat ambiguous construction of the paragraph, it has been widely interpreted that the February 28, 1994 deadline date applies to the entire exception provision for cumulative floor area additions up to 750 square feet. In fact, it does not.

First, the excepted 750 square feet of floor area is described as "cumulative", with only additions occurring after August 30, 1992 counting toward that total. This implies a long-term accretion of said additions. It would not serve logic or equity to apply a time limit to such a relatively minor level of relief.


Second, the ordinance provides further relief in that any additions accepted into plan check by August 30, 1992 irrespective of their size, shall be excluded from the 750 square-foot limitation. It is to this latter relief that the February 28, 1994 deadline applies. This was intended to bring closure to that avenue of potentially substantial exemption.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed."

This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists. Accordingly, I therefore determine that the February 28, 1994 deadline contained in Los Angeles Municipal Code Section 12.21-A,17(i)(5) applies only to construction pursuant to building permits for which plans and fees were accepted into plan check by August 30, 1992 (as specified within the instant subsection), and not to the cumulative 750 square-foot addition exemption, for which there is no time limit.

This determination shall be published pursuant to Los Angeles Municipal Code Section 12.27.D.

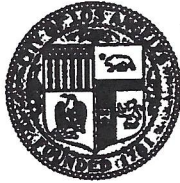


ROBERT JANOVICA  
Chief Zoning Administrator

RJ:lmc



CITY OF LOS ANGELES  
CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

DEPARTMENT OF  
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JOHN J. PARKER, JR.

JON PERICA

MORACE E. TRAMEL, JR.

May 24, 1994

Robert S. Horii  
City Engineer  
Room 800, City Hall  
STOP 490

Re: CASE NO. ZA 94-0305(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - HILLSIDE  
ORDINANCE NO. 168,159  
CITYWIDE

*This is in response to your previous memorandum requesting interpretation of certain issues involving the City's Hillside Ordinance (Ordinance No. 168,159). A copy of your memorandum, is attached for reference. For ease of review, your questions are repeated herein, with our answers.*

*As the issues are of Citywide concern, this response is being written as an official interpretation pursuant to Section 12.21-A,2 of the Los Angeles Municipal Code.*

Question No. 1

*Does the first paragraph of Section 12.21-A,17(e) mandate that this office require dedication and improvement of a fronting street to full Limited Street standards or half street Limited Street standards (with a minimum roadway of 20 feet)?*

Response to Question No. 1

*Section 12.21-A,17(e)(1) of the Municipal Code addresses only dedications, not improvements. It states in part that dedications shall be "at least one-half of the width ... to Standard Hillside Limited Street dimensions or to a lesser width as determined by the City Engineer." Therefore, the Bureau has complete discretion, based upon appropriate reasons, to require dedications ranging from 0 to 18 feet.*

Question No. 2 (first paragraph)

*Does this paragraph intend to direct and/or allow the City Engineer to use discretion in requiring dedication, perhaps to less than Limited Street standards, when conditions of terrain or the unlikelihood of Limited Street standards being continuous for a reasonable distance adjacent to or in the immediate vicinity of the subject parcel are considered?*

Response to Question No. 2 (first paragraph)

As stated above, Section 12.21-A,17(e)(1) of the Municipal Code allows the City Engineer full discretion in requiring dedications.

Question No. 2 (Second paragraph)

Although not stated, may it be inferred that this paragraph applies to street improvements also?

Response second paragraph

No, improvements are dealt with under 12.21-A,17(e)(2).

Question No. 3

Situation: A lot fronts on a street which exists at less than standard (but more than 20 feet). If a developer has prepared street plans and guaranteed construction of a Limited Street half street, should this office notify the Department of Building and Safety (usually on the back of the application) that the development fronts on a "Limited Street"? (Or that it will so front before a Certificate of Occupancy is cleared.) Please bear in mind that this office would require paving of the roadway across at least the frontage of the lot before our clearance of the building permit (for additional width during construction) and that all the improvements would be required to be in place prior to clearance of a Certificate of Occupancy.

Response to Question No. 3

Yes, the Bureau should so notify the Department of Building and Safety.

Question No. 4

Situation: Same as No. 3 but the street roadway is less than 20 feet wide.

Response to Question No. 4

Pursuant to Section 12.21-A,17(e)(2) of the Municipal Code, the Bureau cannot clear the building permit application until the applicant guarantees to the Bureau's satisfaction that a minimum 20-foot roadway will be provided (or the applicant obtains relief from the Zoning Administrator via LAMC Section 12.27-1,18).

Question No. 5

If a parcel has more than one frontage, is it intended that all frontages be improved or just the frontage which provides direct vehicular access?

Response to Question No. 5

In order to provide for rational and equitable future development, the applicant should be required to improve all abutting streets which provide vehicular access to the property, and any other abutting street which Engineering determines may foreseeably provide future access to the subject property or any other property, to a minimum width of 20 feet of roadway.



Question No. 6

*In the appeal process, will the Zoning Administrator's case be referred to this office and others including the Fire Department for comment or recommendations?*

Response to Question No. 6

*It is already the policy and practice of the Zoning Administrator's Office to refer all cases to both the Bureau of Engineering and the Fire Department.*

*If there are further questions/issues, John Parker of this Office specializes in issues relevant to the Hillside Ordinance and he may be contacted at (213) 485-3851.*

*This interpretation shall be published pursuant to Section 12.27-D of the Los Angeles Municipal Code.*

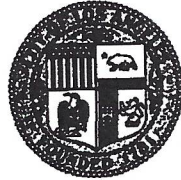


ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

Attachment - Memo of City Engineer

**CITY OF LOS ANGELES**  
CALIFORNIA



**RICHARD J. RIORDAN**  
MAYOR

**ROBERT JANOVICI**  
CHIEF ZONING ADMINISTRATOR

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**DEPARTMENT OF**  
**CITY PLANNING**  
**CON HOWE**  
DIRECTOR

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221 NORTH FIGUEROA STREET  
ROOM 1500  
LOS ANGELES, CA 90012-2601  
(213) 580-5495  
FAX: (213) 580-5569

**March 4, 1996**

**Con Howe**  
**Director of Planning**  
221 North Figueroa Street, #1600  
Los Angeles, CA 90012

**CASE NO. ZA 96-0216(ZAI)**  
**ZONING ADMINISTRATOR'S**  
**INTERPRETATION - USES**  
**PERMITTED BY RIGHT IN THE**  
**OS (OPEN SPACE) ZONE**

**Department of Building and Safety**

The "... managed production of resources" specified in Section 12.04.05-B,1(a)(ii) of the Los Angeles Municipal Code requires either the establishment of a Supplemental Use District, pursuant to Section 13.00 of the Los Angeles Municipal Code, or a discretionary approval as a Conditional Use Permit, pursuant to Sections 12.24-B,9, 12.24-C,26 and 12.24-C,51 of the Municipal Code.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed."

This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

**BACKGROUND**

An interpretation has been requested regarding the uses permitted by right in the OS (Open Space) Zone. The intent of the OS Zone is to protect natural resources, parklands and recreational uses. A question has arisen as to whether the language of Section 12.04.05-B,1(a)(ii) of the Municipal Code, is inappropriate as to the listing of specified uses in the OS Zone.

The issue is whether the phrase "managed production of resources" is an oxymoron in that a resource cannot be both extracted and preserved. There is concern that a natural resource preserve is mentioned in Section 12.04.05-B,1(a)(ii) in terms of the extraction of resources rather than their preservation. Although the OS Zone is designated as the most restrictive zone in Section 12.23-B,1(c)(2) of the Municipal Code, managed production of



resources, as defined in Section 12.04.05-B,1(a)(ii), permits uses, such as oil drilling and other mineral extraction, that are otherwise first permitted in the M3 Zone, which is the least restrictive zone in the City, except for the PF Zone.

The question is whether the uses described in Section 12.04.05-B,1(a) are permitted by right, without a supplemental use district or other discretionary approvals.

### DISCUSSION

Section 12.04.05-b,1(a)(ii) of the Los Angeles Municipal Code provides in pertinent part as follows:

(ii) Natural resource preserves for the managed production of resources, including, but not limited to, forest lands, waterways and watersheds used for commercial fisheries; agricultural lands used for food and plant production; areas containing major mineral deposits ("G" Surface Mining Districts) and other similar uses.

With a limited exception, the Municipal Code does not permit oil drilling and other mineral extraction unless it conforms to the regulations of a supplemental use district (e.g., O Oil Drilling District or G Surface Mining District). In fact, oil drilling and mining are only specified as "by right" uses in the M3 (Heavy Industrial) Zone, and therein only when subjected to further regulations.

In the M3 Zone, Section 12.20-A,18 of the Municipal Code requires that oil drilling conform to the regulations of the "O" Oil Drilling District when located within 500 feet of a more restrictive zone:

"18. Oil drilling and production of oil, gas or hydrocarbons, except that oil drilling and production of oil, gas or hydrocarbons within 500 feet of a more restrictive zone shall be subject to the provisions of Subsections A and H of Section 13.01 of this article."

In the M3 Zone, Section 12.20-A,28 of the Municipal Code requires that surface mining conform to the regulations of the O Surface Mining District:

"28. Rock, sand or gravel distribution; surface mining operations subject to the restrictions provided in Section 13.03."

For all other zones, Supplemental Use Districts are required and added to the underlying zone, for the purpose stated in Section 13.00-A of the Los Angeles Municipal Code:

"A. The purpose of this article is to regulate and restrict the location of certain types of uses whose requirements are difficult to anticipate and cannot adequately be provided for in the Comprehensive Zoning Plan."

Section 13.00-A (Paragraph 2) of the Municipal Code specifically provides that:

*"The provisions of this section shall not apply to the property in the M3 Zone, except as specifically provided herein to the contrary."*

*Therefore, the provisions of the O District apply in every other case to all other zones, including the OS Zone.*

*The provisions of the G Surface Mining District apply to all zones, including both the M3 and OS Zones. Section 13.03-A of the Municipal Code states the purpose and object of the G Surface Mining District to be (in part):*

*"... Reasonable limitations, adequate safeguards and control are deemed necessary in the public interest to effect practices which will provide for a more economic production of minerals and which will also take into consideration the surface use of land, as such uses are indicated by the value and character of the existing improvements within 500 feet of districts where such production is hereinafter permitted, the desirability of the area for residential or other uses, or any other factor directly relating to the public health, comfort, safety and general welfare in surface mining districts."*

*Conditional Use Permits for other forms of natural resource extraction may also be granted as a discretionary approval in all zones. A conditional use permit for natural resource development shall be approved by the City Planning Commission, pursuant to Section 12.24-B,9 of the Los Angeles Municipal Code:*

*"9. Natural resources development (exception the drilling or production of oil, gas or other hydrocarbon substances, or the production of rock and gravel), together with the necessary buildings, apparatus or appurtenances incident thereto."*

*A conditional use may be approved by the Zoning Administrator for certain facilities involving oil drilling, pursuant to Section 12.24-C,51 of the Los Angeles Municipal Code:*

*"51. Onshore installations required in connection with the drilling for or production of oil, gas or hydrocarbons when such installations are permitted by the conditions of the offshore oil drilling district which is to be served."*

*Both Supplemental Use Districts and Conditional Use Permits are in addition to the applicable Zone Classification on a property, but would require either the establishment of a Supplemental Use District, pursuant to Section 13.00 of the Municipal Code, or a discretionary approval of a Conditional Use Permit, pursuant to Sections 12.24-B,9, 12.24-C,26 and 12.24-C,51 of the Municipal Code.*

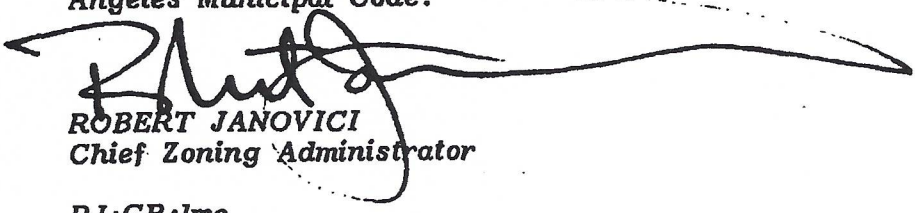
#### CONCLUSION

*Section 12.21-A,2 of the Municipal Code has also been interpreted to include authority to resolve conflicts between disparate narrative passages, and to provide logical results from sometimes arcane, esoteric nuances obscured within the City's zoning regulations. This determination accomplishes those goals.*



Accordingly, the managed production of resources specified in Section 12.04.05-A,1(a)(ii) of the Los Angeles Municipal Code requires either the establishment of a Supplemental Use District, pursuant to Section 13.00 of the Los Angeles Municipal Code, or a discretionary approval as a Conditional Use Permit, pursuant to Sections 12.24-B,9, 12.24-C,26 and 12.24-C,51 of the Municipal Code.

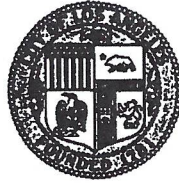
This determination shall be published pursuant to Section 12.27-D of the Los Angeles Municipal Code.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:GB:lmc

**CITY OF LOS ANGELES**  
CALIFORNIA



**RICHARD J. RIORDAN**  
MAYOR

**ROBERT JANOVICI**  
CHIEF ZONING ADMINISTRATOR

**ASSOCIATE ZONING ADMINISTRATORS**

**DANIEL GREEN**  
**ALBERT LANDINI**  
**WILLIAM LILLENBERG**  
**JOHN J. PARKER, JR.**  
**JON PERICA**  
**HORACE E. TRAMEL, JR.**

**DEPARTMENT OF**  
**CITY PLANNING**  
**CON HOWE**  
DIRECTOR

**FRANKLIN P. EBERHARD**  
DEPUTY DIRECTOR

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*March 7, 1996*

*Paul Wong*  
*Plan Check Section*  
*Department of Building and Safety*  
*Room 455, City Hall*  
*Los Angeles, CA 90012*

**CASE NO. ZA 96-0217(ZAI)**  
**LETTER OF CLARIFICATION**  
**7575 Sunset Boulevard**  
**Hollywood Planning Area**  
**Zone : C4-1D; R1-1**  
**D. M.: 147B177**  
**C. D.: 4**  
**Fish and Game: Exempt**  
**Legal Description: Lots 17,**  
**18 and the westerly 125 feet**  
**of Lots 19 and 21, Sierra**  
**Bonita Tract**

*Recently, this Office issued a communication concerning the appropriate application of the City's parking requirements to the above site. Previously, the Planning Department had issued a Site Plan Approval which references accessory "storage".*

*This term clearly also describes that same use which I euphemistically referred to as "warehouse" in my action of March 4, 1996 and the Department of Building and Safety should assume the findings of the original letter are in place except for substitution of the term storage for warehouse.*

  
**ROBERT JANOVICI**  
Chief Zoning Administrator

**RJ:mw**

**cc: Councilman John Ferraro**  
**Fourth District**





**CITY OF LOS ANGELES**  
CALIFORNIA



**RICHARD J. RIORDAN**  
MAYOR

**ROBERT JANOVICI**  
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**September 4, 1996**

**Interested Parties**

**CASE NO. ZA 96-0778(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION -  
SECTION 12.21-C,5(h), LOS  
ANGELES MUNICIPAL CODE**

**The approval of a parking lot or structure in a more restrictive zone than the adjoining use it serves does not also require a variance from Section 12.21-C,5(h) of the Los Angeles Municipal Code.**

**Background**

**Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:**

**"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed."**

**This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.**

**Section 12.21-C,5(h) of the Los Angeles Municipal Code provides:**

**"(h) No accessory building or use shall be located on property in a more restrictive zone than that required for the main building or main use to which it is accessory. The relationship between the more restrictive and the less restrictive zones shall be determined by the sequence of zones set forth in Section 12.23-B,1(c).**

**The basis for the Code Section is that property in a more restrictive zone should not automatically be permitted to serve for activities first permitted in a less restrictive zone solely based upon its proximity to the former and common ownership or development scheme. Otherwise, the more restrictively zoned property will automatically be utilized in a manner as though a zone change occurred on it.**



As example of this situation would be where property in an A or R Zone abuts property in a commercial zone and the owner of the commercial use wishes to utilize the A or R zoned property for parking or storage. In either case, either a conditional use permit for parking or a variance for storage would be required to conduct the use.

Inferred in either case if the approval were granted, is also authorization to utilize the more restrictively zoned property in contravention of Section 12.21-C,5(h) above. However, no separate variance from Section 12.21-C,5(h) is required in addition to the conditional use or variance as it would merely lead to excess process and fees and the land use impacts would have already been considered.

As noted, supra, over the course of years, Section 12.21-A,2 of the zoning regulations has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances.

This Section has also been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's zoning regulations. It is in such spirit that this determination has been issued.

This determination shall be published pursuant to Section 12.21-D of the Los Angeles Municipal Code.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:mw



**CITY OF LOS ANGELES**  
CALIFORNIA



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**September 4, 1996**

**Interested Parties**

**CASE NO. ZA 96-0779(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - EQUESTRIAN  
FACILITIES - PARKING AREA  
IMPROVEMENT REQUIREMENTS**

*A commercial facility for the boarding, raising and breeding of horses does not need a variance in order to not provide the standard parking area improvement requirements otherwise required by Code.*

*Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:*

*"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed."*

*This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.*

*Section 12.21-A,6 of the Los Angeles Municipal Code provides as follows:*

*"6. Automobile Parking and Sales Area--Improvement - Every public or private parking area or automobile, manufactured home or trailer sales area other than those lawfully in existence on August 21, 1969 shall be arranged, improved and maintained in accordance with the following regulations."*

*The reasons for the requirements are obvious but should not apply where the use involves riding academies or stables or the commercial grazing, breeding, boarding, training and raising of equines take place. This is so because the hard pavement poses a health and safety threat to the equines' hoofs.*

*It is common, therefore, for a person seeking a conditional use permit for the facility to also request a variance from Section 12.21-A,6 as well.*



*A basic precept of zoning regulations is that in addition to the basic uses permitted and called out in the various zone categories, all incidental uses/activities normally accessory to such main use are likewise permitted.*

*As noted, supra, over the course of years, Section 12.21-A,2 of the zoning regulations has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances.*

*This Section has also been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's zoning regulations. In this instance, it is customary for such facilities/uses to have unimproved parking areas, and consequently this shall be permitted by right without the need for a variance.*

*This determination shall be published pursuant to Section 12.21-D of the Los Angeles Municipal Code.*



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:mw



**CITY OF LOS ANGELES**  
CALIFORNIA



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ALBERT LANDINI  
LEONARD S. LEVINE  
JON PERICA  
SARAH A. RODGERS  
HORACE E. TRAMEL, JR.

August 5, 1998

Paul Crabtree (A)  
Homestead Village  
184 Technology Drive, #202  
Irvine, CA 92618

Stephen Weinstock (O)  
1840 North Highland Associates  
3030 North Quincy Street  
Arlington, VA 22207

Tom Stemnock (R)  
Planning Associates, Inc.  
5910 Lemona Avenue, 2<sup>nd</sup> Floor  
Van Nuys, CA 91411

CASE NO. ZA 98-0578(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION  
1840 North Highland Avenue  
Hollywood Planning Area  
Zones : [Q]R5-2 and [Q]R4-2  
D.M. : 150 A185  
C.D. : 4  
CEQA : Not applicable  
Fish and Game: Exempt  
Legal Description: Lots 12, 13  
and portions of 10 and 11,  
Block 5, Hollywood Ocean View  
Tract; Lot 5, Franklin Place Tract

**Department of Building and Safety**

The development of an "extended stay" business hotel with kitchenettes in the guest rooms is considered a hotel for the purpose of classifying the use under the City's zoning regulations.\*

Section 12.21-A,2 of the Los Angeles Municipal Code provides:

- "2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed."

This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

---

\* - As a hotel, the use is subject to all regulations and requirements applicable to such use under the City's zoning regulations.

### Background

Homestead Village operates a nation-wide chain of extended stay business hotels that are geared to meet the needs of the business community. Companies send employees to seminars, training or corporate offices and make available to their employees rooms that are outfitted with work stations, voice mail and extra phone lines. These rooms also have a kitchenette which has a small refrigerator, microwave oven, and two burner stove.

Homestead is currently in escrow to purchase the property located at 1840 North Highland Avenue at the southeast corner of Highland and Franklin Avenues. The site is zoned [Q] R5-2 and [Q] R4-2. The Community Plan designates the site as High and Very High density residential.

The site currently is vacant with the exception of three billboards.

The proposed building will be a 145-unit, approximately 76,000 square-foot, extended stay business hotel.

There will be three room plans ranging in size from 291 to 358 square feet. Each room will include a bathroom, closet, sitting area and kitchenette under 100 square feet. One parking space per room will be provided either in a surface lot or structure.

It is anticipated the following discretionary approvals will be required:

1. A Conditional Use Permit for a hotel in the R4 Zone (12.24.C-19).
2. A Conditional Use Permit for a Satellite Dish in the R4 Zone (12.24.C-18).

A fact sheet, site plan, room floor plans and photos are provided for your review.

### Discussion

The Department of City Planning and the Department of Building and Safety have indicated that a hotel room with a kitchen is usually not deemed a guest room but is considered an efficiency unit under the strict application of the Zoning Code. Efficiency units make up an apartment building not a hotel. The definitions that establish this interpretation are as follows:

Hotel - a residential building designed or used for or containing six or more guest rooms or suites of rooms, which may also contain not more than one dwelling unit.

Guest Room - is any habitable room except a kitchen, designed or used for occupancy by one or more persons and not in a dwelling unit.

Efficiency Room - located within an apartment house or apartment hotel used or intended to be used for residential purposes which has a kitchen and a living and sleeping quarters combined therein, and which complies with the requirements of Section 91.4930.2 of this Code.



The proposed project is not an apartment building. Homestead Village is in the hotel business. There are differences between the two in the required discretionary actions, the calculation of density, the construction and the type of fees and taxes paid. This determination has wide spread consequences. The full impact of determining the proposed project to be an apartment building has not yet been determined.

#### Operational Characteristics

Homestead Village is meeting a need created by a developing trend in the hotel market for extended stay business hotels.

The business hotels are located near the demand generator which is a large business district. In this case, the demand generator is Hollywood. In most cases the guest at the hotel is attending seminars or corporate training. Based upon experience, the average stay is 2.2 weeks. The hotel rooms offer a complete work station, voice mail and extra phone lines. A kitchenette is provided to offer an alternative to dining out.

The hotel has only guest rooms and does not provide other amenities such as a bar, restaurant, meeting rooms, banquet facilities or gym. The hotel contracts with local businesses for these types of services. The guests are provided a list of services and coupons for the services that are available.

Accounts are established by corporation in advance and the room is billed directly to the corporation. Ninety-One (91%) of their clients are from the established direct bill client list. Currently, there are 1700± direct bill business accounts. The average occupancy rate is 82%.

The guest is provided business specific services at a rate approximately 20% less than Marriott Courtyard Corporate rates. Homestead is able to provide discounted rates because they are not incurring costs associated with the additional amenities normally provided for vacationers.

Homestead Village currently has opened 50 hotels across the country and a total of 75 are projected by year end. An additional 50 locations are currently being processed. In no other instance have their hotels been considered a residential use and all the Certificates of Occupancy have been issued for hotels.

As noted, supra, over the course of years, Section 12.21-A,2 of the zoning regulations has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances.

This Section has also been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's zoning regulations.

The City of Los Angeles Codes were written before this trend was established and have not been updated to address this new type of hotel use. We understand there is a

concern that this type of building could be converted to an apartment without the benefit of Planning Department or Building and Safety review. To eliminate this possibility, Homestead Village is required to record a Covenant and Agreement to maintain and operate the hotel as a commercial hotel only thereby putting future owners on notice that the building is restricted to a hotel use and operation.

Further, the proposed hotel shall not be converted nor operated as an apartment house or apartment hotel at any time. This agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. Further, the agreement must be submitted to the Office of Zoning Administration for approval before being recorded. After recordation, a copy bearing the Recorder's number and date must be given to the Office of Zoning Administration for attachment to the subject case file.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:mw

cc: Councilmember John Ferraro  
Fourth District



# CITY OF LOS ANGELES

CALIFORNIA



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ALBERT LANDINI

LEONARD S. LEVINE

JON PERICA

SARAH RODGERS

February 7, 2001

Interested Parties

CLARIFIED - DATE ON PAGE 3

CASE NO. ZA 2001-0331(ZAI)

ZONING ADMINISTRATORS

INTERPRETATION

CITYWIDE

The prevailing front yard setback requirements applicable to the suburban (RA) and certain other single-family zones shall apply throughout the city, including those properties within designated hillside areas and/or on designated hillside streets, except as specified herein.

Section 12.21 -A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed ... The Zoning Administrator shall also have authority to adopt general interpretations determining the proper application of the yard regulations to groups of lots located in hillside districts or affected by common problems."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

## Background

An inquiry has been made as to whether the minimum 5-foot front yard setback contained within Ordinance No. 168,159 commonly referred to as the "Hillside Ordinance" and applicable to the development of hillside lots is the sole determinant as to the required front yard setback in hillside areas which are regulated by such ordinance. For the reasons noted, *infra*, I have determined that within areas of the City subject to the Hillside Ordinance (and even on properties which are on a stamped hillside street), the provisions of the Code wherein the prevailing setback of a block frontage prescribes a greater setback than otherwise would be the case, such prevailing setback provision applies, subject to the proviso that in no event may a prevailing setback result in less than a 5-foot setback being provided.

On October 6, 1950, Huber Smutz, the then Chief Zoning Administrator, issued Zoning Administrator Interpretation No. 1270 which treated the issue of the application of the

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"... area requirements of the [then] new Comprehensive Zoning Ordinance to hillside lots ...", and established rules as to what determined property to be classified as hillside.

Mr. Smutz noted that rules applicable to front and side yards and location of accessory buildings and which were designed for the normal type fairly level lot present throughout the city could perhaps not be applied equitably to properties in hillside or mountainous land. Of course, Mr. Smutz' action took place during a prior era when sensitivity to and appreciation of hillside areas had not evolved to current thinking and such topographical features were essentially looked upon as unnecessary barriers to development. This was also obviously before the adoption of the California Environmental Quality Act which occurred in 1970.

In the 1980's work commenced on creating a citywide ordinance dealing with residential areas which were in hillside or mountainous areas and with a view such areas were a resource to preserve. This was initiated in response to numerous incidents of development where there was under the rules, mansionization or overbuilding on hillside sites, as well as inadequate emergency access and on-site parking. This eventually culminated in adoption of Ordinance No. 168,159, effective September 14, 1992 and generally referred to as the City's Hillside Ordinance. Prior to that ordinance becoming effective, a new interpretation (ZA 90-1439 ZAI) was issued by this Office to govern as a transitional standard while the Hillside Ordinance was moving towards final City Council and Mayoral approval.

This interim regulation held that on a street stamped hillside on the respective district map, no structure would be allowed by right to be any closer to the street property line than allowed under an ICO or other specific ordinance and in the absence of such a specific ordinance, a minimum 5-foot setback would be required.

It has now been almost 10 years since the effective date of the hillside ordinance and generally, its results have been those desired by the City Council. In certain circumstances, however, the front yard issue has cropped up with negative results. The Department of Building and Safety has in determining the appropriate setback on stamped hillside streets, applied the 5-foot front yard setback requirement based upon the 1991 interpretation under Case No. ZA 90-1439(ZAI). Most recently, however, a specific situation has presented itself where on a particular stamped hillside street, a 5-foot setback has been authorized on a specific lot where as the rest of the homes on the block observe substantially greater setbacks, and this anomalous situation is creating an impact upon the prevailing profile and aesthetic attributes of the street.

In reviewing the Hillside Ordinance, as well as related records, it appears that this specific issue (the application of the prevailing setback provisions) was not addressed nor considered during the pendency of the legislation and there is a need to fill this gap in order to complete the regulatory scheme envisioned by the City Council.

Consequently, it is determined that for properties within hillside areas, whether on streets stamped hillside or not, the regulations calling for observance of the prevailing setback shall apply on properties having a zoning classification which contains the prevailing setback provisions, but in no event may the prevailing setback result in less than a 5-foot setback being observed unless under an ICO or specific discrete specific plan there is an

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express intent to supercede the prevailing setback requirement in the zoning regulations. Additionally, Section 12.22-C,6 (Front Yard - Sloping Lot) shall not apply to the prevailing setback.

In order to allow for appropriate transitional lead time before the effective date of this action, this determination will not apply if plans capable of a complete plan check were accepted and deemed complete by the Department of Building and Safety by April 30, 2001, with no later modifications resulting in enlargement of the footprint or height or floor area of the building consistent with the setbacks in the Hillside Ordinance and/or ZA 90-1439(ZAI).

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of this Office.



ROBERT JANOVIC  
Chief Zoning Administrator

RJ:lmc

CITY OF LOS ANGELES  
CALIFORNIA



RICHARD J. RIORDAN  
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February 7, 2001

Interested Parties

CLARIFIED - DATE ON PAGE 3  
CASE NO. ZA 2001-0331(ZAI)  
ZONING ADMINISTRATORS  
INTERPRETATION  
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These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

Background

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Mr. Smutz noted that rules applicable to front and side yards and location of accessory buildings and which were designed for the normal type fairly level lot present throughout the city could perhaps not be applied equitably to properties in hillside or mountainous land. Of course, Mr. Smutz' action took place during a prior era when sensitivity to and appreciation of hillside areas had not evolved to current thinking and such topographical features were essentially looked upon as unnecessary barriers to development. This was also obviously before the adoption of the California Environmental Quality Act which occurred in 1970.

In the 1980's work commenced on creating a citywide ordinance dealing with residential areas which were in hillside or mountainous areas and with a view such areas were a resource to preserve. This was initiated in response to numerous incidents of development where there was under the rules, mansionization or overbuilding on hillside sites, as well as inadequate emergency access and on-site parking. This eventually culminated in adoption of Ordinance No. 168,159, effective September 14, 1992 and generally referred to as the City's Hillside Ordinance. Prior to that ordinance becoming effective, a new interpretation (ZA 90-1439 ZAI) was issued by this Office to govern as a transitional standard while the Hillside Ordinance was moving towards final City Council and Mayoral approval.

This interim regulation held that on a street stamped hillside on the respective district map, no structure would be allowed by right to be any closer to the street property line than allowed under an ICO or other specific ordinance and in the absence of such a specific ordinance, a minimum 5-foot setback would be required.

It has now been almost 10 years since the effective date of the hillside ordinance and generally, its results have been those desired by the City Council. In certain circumstances, however, the front yard issue has cropped up with negative results. The Department of Building and Safety has in determining the appropriate setback on stamped hillside streets, applied the 5-foot front yard setback requirement based upon the 1991 interpretation under Case No. ZA 90-1439(ZAI). Most recently, however, a specific situation has presented itself where on a particular stamped hillside street, a 5-foot setback has been authorized on a specific lot where as the rest of the homes on the block observe substantially greater setbacks, and this anomalous situation is creating an impact upon the prevailing profile and aesthetic attributes of the street.


In reviewing the Hillside Ordinance, as well as related records, it appears that this specific issue (the application of the prevailing setback provisions) was not addressed nor considered during the pendency of the legislation and there is a need to fill this gap in order to complete the regulatory scheme envisioned by the City Council.

Consequently, it is determined that for properties within hillside areas, whether on streets stamped hillside or not, the regulations calling for observance of the prevailing setback shall apply on properties having a zoning classification which contains the prevailing setback provisions, but in no event may the prevailing setback result in less than a 5-foot setback being observed unless under an ICO or specific discrete specific plan there is an

express intent to supercede the prevailing setback requirement in the zoning regulations. Additionally, Section 12.22-C,6 (Front Yard - Sloping Lot) shall not apply to the prevailing setback.

In order to allow for appropriate transitional lead time before the effective date of this action, this determination will not apply if plans capable of a complete plan check were accepted and deemed complete by the Department of Building and Safety by April 30, 2001, with no later modifications resulting in enlargement of the footprint or height or floor area of the building consistent with the setbacks in the Hillside Ordinance and/or ZA 90-1439(ZAI).

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of this Office.



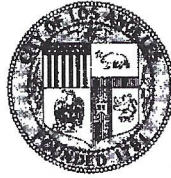
ROBERT JANOVIC  
Chief Zoning Administrator

RJ:lmc



# CITY OF Los ANGELES

CALIFORNIA



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R. NICOLAS BROWN  
EMILY J. GABEL-LUDDY  
DANIEL GREEN  
LOURDES GREEN  
DAVID KABASHIMA  
ALBERT LANDINI  
LEONARD S. LEVINE  
JON PERICA  
SARAH RODGERS

January 25, 2001

### Interested Parties

CASE NO. ZA 2001-0331(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION  
CITYWIDE

The prevailing front yard setback requirements applicable to the suburban (RA) and certain other single-family zones shall apply throughout the city, including those properties within designated hillside areas and/or on designated hillside streets, except as specified herein.

Section 12.21 -A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed ... The Zoning Administrator shall also have authority to adopt general interpretations determining the proper application of the yard regulations to groups of lots located in hillside districts or affected by common problems."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

### Background

An inquiry has been made as to whether the minimum 5-foot front yard setback contained within Ordinance No. 168,159 commonly referred to as the "Hillside Ordinance" and applicable to the development of hillside lots is the sole determinant as to the required front yard setback in hillside areas which are regulated by such ordinance. For the reasons noted, infra, I have determined that within areas of the City subject to the Hillside Ordinance (and even on properties which are on a stamped hillside street), the provisions of the Code wherein the prevailing setback of a block frontage prescribes a greater setback than otherwise would be the case, such prevailing setback provision applies, subject to the proviso that in no event may a prevailing setback result in less than a 5-foot setback being provided.

On October 6, 1950, Huber Smutz, the then Chief Zoning Administrator, issued Zoning Administrator Interpretation No. 1270 which treated the issue of the application of the



" area requirements of the [then] new Comprehensive Zoning Ordinance to hillside lots ...", and established rules as to what determined property to be classified as hillside.

Mr. Smutz noted that rules applicable to front and side yards and location of accessory buildings and which were designed for the normal type fairly level lot present throughout the city could perhaps not be applied equitably to properties in hillside or mountainous land. Of course, Mr. Smutz' action took place during a prior era when sensitivity to and appreciation of hillside areas had not evolved to current thinking and such topographical features were essentially looked upon as unnecessary barriers to development. This was also obviously before the adoption of the California Environmental Quality Act which occurred in 1970.

In the 1980's work commenced on creating a citywide ordinance dealing with residential areas which were in hillside or mountainous areas and with a view such areas were a resource to preserve. This was initiated in response to numerous incidents of development where there was under the rules, mansionization or overbuilding on hillside sites, as well as inadequate emergency access and on-site parking. This eventually culminated in adoption of Ordinance No. 168,159. effective September 14, 1992 and generally referred to as the City's Hillside Ordinance. Prior to that ordinance becoming effective, a new interpretation (ZA 90-1439 ZAI) was issued by this Office to govern as a transitional standard while the Hillside Ordinance was moving towards final City Council and Mayoral approval.

This interim regulation held that on a street stamped hillside on the respective district map, no structure would be allowed by right to be any closer to the street property line than allowed under an ICO or other specific ordinance and in the absence of such a specific ordinance, a minimum 5-foot setback would be required.

It has now been almost 10 years since the effective date of the hillside ordinance and generally, its results have been those desired by the City Council. In certain circumstances, however, the front yard issue has cropped up with negative results. The Department of Building and Safety has in determining the appropriate setback on stamped hillside streets, applied the 5-foot front yard setback requirement based upon the 1991 interpretation under Case No. ZA 90-1439(ZAI). Most recently, however, a specific situation has presented itself where on a particular stamped hillside street, a 5-foot setback has been authorized on a specific lot where as the rest of the homes on the block observe substantially greater setbacks, and this anomalous situation is creating an impact upon the prevailing profile and aesthetic attributes of the street.

In reviewing the Hillside Ordinance, as well as related records, it appears that this specific issue (the application of the prevailing setback provisions) was not addressed nor considered during the pendency of the legislation and there is a need to fill this gap in order to complete the regulatory scheme envisioned by the City Council.

Consequently, it is determined that for properties within hillside areas, whether on streets stamped hillside or not, the regulations calling for observance of the prevailing setback shall apply on properties having a zoning classification which contains the prevailing setback provisions, but in no event may the prevailing setback result in less than a 5-foot



setback being observed unless under an ICO or specific discrete specific plan there is an express intent to supercede the prevailing setback requirement in the zoning regulations. Additionally, Section 12.22-C,6 (Front Yard - Sloping Lot) shall not apply to the prevailing setback.

In order to allow for appropriate transitional lead time before the effective date of this action, this determination will not apply if plans capable of a complete plan check were accepted and deemed complete by the Department of Building and Safety by June 30, 2000, with no later modifications resulting in enlargement of the footprint or height or floor area of the building consistent with the setbacks in the Hillside Ordinance and/or ZA 90-1439(ZAI).

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of this Office.

A handwritten signature in black ink, appearing to read 'Robert Janovici', with a long, wavy horizontal line extending to the right.

ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

ROBERT JANOVICI  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

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CITY OF Los ANGELES  
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October 9, 2001

Gerald Marcil (A)(O)  
Manchester Developers, LLC  
43-D Malaga Cove Plaza  
Palos Verdes Estates, CA 90274

CASE NO. ZA 2001-4000(ZAI)  
ZONING ADMINISTRATORS  
INTERPRETATION -CITYWIDE

Tom McCarty (R)  
The McCarty Company, LLC  
725 South Figueroa Street, #3090  
Los Angeles, CA 90017

Department of Building and Safety

Totally multi-family residential developments subject to the City's Commercial Corner Regulations do not have to comply with those portions of such provisions which otherwise prohibit tandem parking and require 50% of all exterior walls which face streets to be comprised of transparent windows, as more fully delineated and specified below.

By written letter submitted by the prospective developer of a multi-family residential project which is to be on a corner site, query has been made as to the applicability of Los Angeles Municipal Code Sections 12.22-A,23(a)(2)(i) and 12.22-A,23(a)(8) which provide respectively:

"12.22-A,23(a)(2)(i) - Notwithstanding Section 12.21-A,5(h) of this Code to the contrary, no tandem parking shall be permitted."

"12.22-A,23(a)(8) Windows. At least fifty percent of all exterior walls (including doors) which face streets, shall consist of transparent windows, unless otherwise prohibited by law."

The question is whether such provisions should apply to a totally multi-family residential development on a corner site.

In reviewing the Code Sections involved and their legislative history, it was clearly the intent of the City Council to regulate multiple residential developments on corner sites in



close proximity to single-family dwellings from the prospective of the bulk of such buildings and the proximity the multi-family residential use had to single-family development. In fact, privacy could be better maintained for the single-family development by less rather than more windows along the frontages of the multiple residential building.

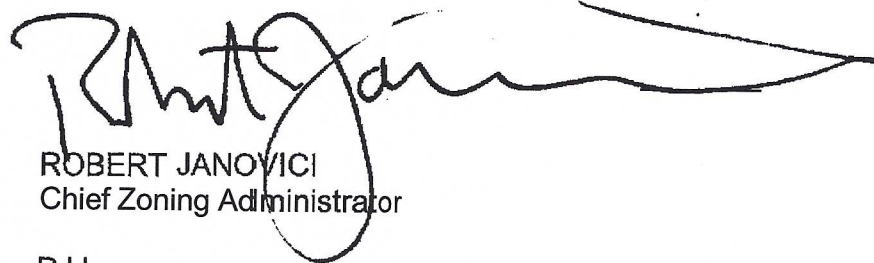
Further, the prohibition on tandem spaces was likewise geared toward commercial and retail development where there could be no control over parked (stacked) vehicles because the owners would not leave their cars with keys in them and this would cause parking lot congestion which would spill over onto the streets. With multiple residential development, so long as the tandem stalls are assigned to the tenant(s) of the same unit, no such problem would arise.

As noted, supra, over the course of years, Section 12.21-A,2 of the zoning regulations has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances.

This Section has also been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's zoning regulations.

Consequently, multi-family residential uses on corner lots do not have to comply with either Section 12.22-A,23(a)(2)(i) or 12.22-A,23(a)(8) of the Los Angeles Municipal Code so long as the development is totally comprised of a multi-family residential use and tandem (two spaces, one behind another) sets of spaces are only assigned to the residents of a single dwelling unit.'

This determination shall be published pursuant to the Municipal Code.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

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'This determination does not supercede "Q" Conditions or other regulations that may be enacted which deal with the same subject matter.

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CITY OF LOS ANGELES  
CALIFORNIA



JAMES K. HAHN  
MAYOR

DEPARTMENT OF  
CITY PLANNING  
CON HOWE  
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SARAH RODGERS

May 2, 2003

Mike Van Etten (A)  
Forest City Residential West, Inc.  
949 South Hope Street, #100  
Los Angeles, CA 90015

George van Gilluwe (R)  
444 South Flower Street, #1200  
Los Angeles, CA 900712

CASE NO. ZA 2003-2347(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION  
DOWNTOWN PROJECT AREA AS  
DEFINED IN PARAGRAPH (g) OF  
SECTION 12.22-A,26 OF THE LOS  
ANGELES MUNICIPAL CODE

Department of Building and Safety

The developer of an adaptive reuse project may voluntarily elect to not utilize the density incentive set forth in Section 12.22-A,26(h)(2) of the Los Angeles Municipal Code. This incentive waives compliance with the lot area requirements of the underlying zone or height district. If a developer makes this election, then the adaptive reuse project does not need to be developed in compliance with the unit size and other standards set forth in Section 12.22-A,26(i) of the Code. However, the lot area requirements of the underlying zone or height district and other applicable provisions of the Code shall govern the permitted density in the adaptive reuse project.

Section 12.21-A,2 of the Code provides, in pertinent part, as follows:

**"2. Other Use and Yard Determinations by the Zoning Administrator.**  
The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.





Background

On June 3, 1999, Ordinance No. 172,571, commonly referred to as the "Downtown Adaptive Reuse Ordinance", went into effect. The ordinance was amended by Ordinance No. 174,315, which went into effect on December 20, 2001.

The purpose of the Downtown Adaptive Reuse Ordinance, as set forth in Paragraph (a) of Section 12.22-A,26 of the Code, is to "revitalize the Greater Downtown Los Angeles area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities."

As noted in the staff report to the City Planning Commission dated May 28, 1998 (CPC-95-0343-CA), "in many cases, existing residential lot area requirements are too restrictive and prevent developers from converting entire existing commercial buildings to residential uses without first obtaining a variance." To remove this impediment to the full conversion of an existing building for residential uses, Subparagraph (2) of Section 12.22-A,26(h) of the Code provides a density incentive that waives the lot area requirements of the underlying zone or height district. Lot area requirements regulate the number of residential units, such as dwelling units, joint living and work quarters, and guest rooms, that are permitted on a lot.

The purpose of the density incentive is to allow for an increase in the number of residential units in excess of what the lot area requirements may allow. The density incentive may only be applied to an eligible building's existing floor area, with the exception of mezzanines. As provided by Subparagraph (1) of Section 12.22-A,26(h) of the Code, loft spaces that do "not exceed more than 33 percent of the floor area of the space below" may be added to residential units.

To compensate for the consequences of waiving the lot area requirements, the Downtown Adaptive Reuse Ordinance establishes a *quid pro quo*. Paragraph (i) of Section 12.22-A,26 of the Code requires adaptive reuse projects to be developed in compliance with three standards. The first standard establishes a minimum unit size for all new dwelling units and joint living and work quarters of at least 450 square feet. The second standard establishes a minimum average unit size for all dwelling units and joint living and work quarters in the building of at least 750 square feet. The third standard requires all guest rooms to include a toilet and bathing facilities. These standards are designed to provide for an appropriate number of new residential units; to encourage the effective revitalization of Downtown Los Angeles by promoting quality development; and to minimize negative impacts on surrounding neighborhoods.

In some cases, the lot size and applicable lot area standards may allow a sufficient number of residential units to enable the full conversion of an existing building without utilizing the Downtown Adaptive Reuse Ordinance's density incentive. Various other Code provisions also provide density incentives that may enable the full conversion of existing buildings to new residential units. For example, Paragraph (a) of Section 12.22-A,18 of the Code allows "any use permitted in the R5 Zone on any lot in the CR, C1, C1.5, C2, C4 or C5 Zones provided that such lot is located within an area designated

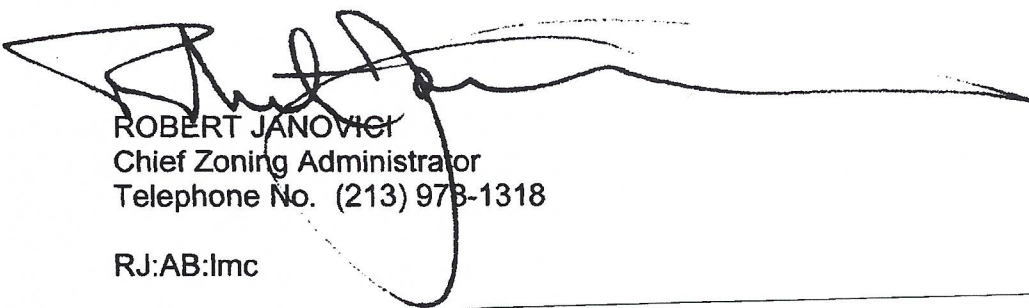
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on an adopted community plan as 'Regional Center', or 'High Intensity Commercial', or within any redevelopment project area and approved by the City Council within the Central City Community Plan Area. Any combination of R5 uses and the uses permitted in the underlying commercial zone shall be permitted on such lot." Section 12.22-A,25 of the Code grants additional density to qualifying residential projects, including adaptive reuse projects, that include affordable housing units on-site.

The Downtown Adaptive Reuse Ordinance was not intended to mandate the application of the lot area requirements waiver. This density incentive was only included in the ordinance to facilitate the full conversion of an existing building to new residential uses. If the developer of an adaptive reuse project concludes that utilizing the lot area requirements waiver is unnecessary to accomplish the objective of full conversion, then there is no reason to require compliance with the three standards set forth in Paragraph (i) of Section 12.22-A,26 of the Code. These standards were only intended as a *quid pro quo* to offset the impacts of waiving the lot area requirements.

Consequently, I find that a developer may voluntarily elect to not utilize the density incentive set forth in Subparagraph (2) of Section 12.22-A,26(h) of the Code. If a developer makes this election, then the adaptive reuse project does not need to be developed in compliance with the standards set forth in Paragraph (i) of Section 12.22-A,26. However, the lot area requirements of the underlying zone or height district and other applicable provisions of the Code shall govern the permitted density in the adaptive reuse project.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.



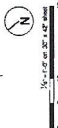
ROBERT JANOWICZ  
Chief Zoning Administrator  
Telephone No. (213) 978-1318

RJ:AB:lmc

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PARCEL B-3:  
MC CARTNEYS HILL STREET PROPERTY, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, RECORDED IN BOOK 8, PAGE 53 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THE SOUTHWESTERLY ONE FOOT, FRONT AND REAR OF THE OLD WANSFORD PROPERTY, IN SAID CITY, COUNTY AND STATE, AS PER MAP RECORDED IN BOOK 8, PAGE 136, OF SAID MAP RECORDS OF SAID COUNTY.



**CITY OF LOS ANGELES**  
CALIFORNIA



**JAMES K. HAHN**  
MAYOR

**ROBERT JANOVICI**  
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**August 11, 2003**

**Interested Parties**

**CASE NO. ZA 2003-5444(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION**

**Department of Building and Safety**

**Downtown Project Area as Defined in  
Paragraph (G) of Section 12.22-A, 26 of  
the Los Angeles Municipal Code**

**Adaptive Reuse Projects Approved  
Pursuant to Section 12.24-X, 1 of the  
Los Angeles Municipal Code**

**ADAPTIVE REUSE PROJECT**

The definition of "adaptive reuse project" set forth in Paragraph (c) of Section 12.22-A, 26 of the Los Angeles Municipal Code shall include any change of an existing use to new uses that are accessory to dwelling units, guest rooms, or joint living and work quarters. These accessory uses must be:

- (1) Consistent with the definition of "accessory use" set forth in Section 12.03 of the Code; and
- (2) Permitted by the underlying zone.

**NEW FLOOR AREA**

The following actions shall not be considered as adding new floor area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions and other provisions set forth in Section 12.22-A 26 of the Code:

- (1) Changing the use of any portion of an eligible building that Section 12.03 of the Code does not define as "floor area," to new dwelling units, guest rooms, joint living and work quarters, or accessory uses; and
- (2) Demolishing and removing any interior portion of an eligible building for the construction of new dwelling units, guest rooms, joint living and work quarters, or accessory uses. The newly constructed areas shall not



exceed the area of the portion demolished, and must be located within the same building's existing exterior walls below the existing roof. However, new rooftop structures may be constructed as discussed below.

This interpretation shall apply to existing mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or any other existing portion of an eligible building, either above or below the existing roof.

### **NEW ROOFTOP STRUCTURES**

The construction of new structures on the existing roof of an eligible building shall not be considered as adding new floor area that enlarges the building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in Section 12.22-A,26 of the Code.

The new rooftop structures shall not exceed one story, but may exceed any height limits set forth by the Code, underlying zone, height district, or other applicable regulation.

The new rooftop structures shall not be dwelling units, guest rooms, or joint living and work quarters, but must be used solely for accessory uses or open space. Notwithstanding, the existing roof of an eligible building may be used as the top story of a multiple-story dwelling unit, guest room, or joint living and work quarters. However, no complete and separate dwelling units, guest rooms, or joint living and work quarters may be constructed on the existing roof of an eligible building.

This interpretation shall apply to all adaptive reuse projects, even if such projects do not involve "changing the use of any portion of an eligible building", or "demolishing and removing any interior portion of an eligible building", as discussed above under "New Floor Area" in paragraphs (1) and (2), respectively.

### **OPEN SPACE AREAS**

Balconies, patios, terraces, recreation and fitness rooms, pools, gardens, and other common or private open space areas that are created by reusing existing portions of an eligible building shall not be considered as floor area, or considered as adding new floor area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in Section 12.22-A,26 of the Code. Such existing portions may include interior space, lobbies, fire escapes, rooftops, mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or other existing portions of an eligible building, either above or below the existing roof. However, these newly created open space areas may be counted toward the calculation of the 450 square-foot minimum floor area and 750 square-foot minimum average floor area standards for dwelling units and joint living and work quarters set forth in Section 12.22-A,26(i) of the Code.

### **USE OF EXISTING PARKING SPACES**

Section 12.22-A,26(h)(3) of the Code states that parking that existed on the site of the adaptive reuse project on June 3, 1999 "shall be maintained and not reduced". At the



building owner's sole discretion, these existing spaces may be used to provide parking for any on-site or off-site use. This interpretation shall not apply to for-sale adaptive reuse projects that the Advisory Agency approves as part of a division of land determination. Instead, the conditions of the Advisory Agency's determination shall apply.

## **AUTHORITY OF THE ZONING ADMINISTRATOR TO INTERPRET ZONING REGULATIONS**

Section 12.21-A,2 of the Code provides, in pertinent part, as follows:

**"2. Other Use and Yard Determinations by the Zoning Administrator.** The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

## **BACKGROUND**

On June 3, 1999, Ordinance No. 172,571, commonly referred to as the "Downtown Adaptive Reuse Ordinance", went into effect. The ordinance was amended by Ordinance No. 174,315, which went into effect on December 20, 2001.

The purpose of the Downtown Adaptive Reuse Ordinance, as set forth in Paragraph (a) of Section 12.22-A,26 of the Code, is to "revitalize the Greater Downtown Los Angeles Area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities. This will help to reduce vacant space as well as preserve Downtown's cultural and architectural past and encourage the development of a live/work and residential community Downtown, thus creating a more balanced ratio between housing and jobs in the region's primary employment center."

### Adaptive Reuse Project

The Downtown Adaptive Reuse Ordinance defines an "adaptive reuse project" as "any change of use to dwelling units, guest rooms or joint living and work quarters in all or any portion of any eligible building". A question has been raised as to whether accessory uses are covered by this definition, and therefore eligible to benefit from the ordinance's incentives, exceptions, and other provisions.

As a matter of real estate industry practice, residential developments, including multiple family apartment buildings, condominiums, and hotels and other visitor-serving facilities, typically provide amenities for the common enjoyment and use of residents and guests.



These amenities, which may include common open space, recreation and fitness rooms, pools, or recycling areas or rooms, are accessory to the building's main use. Such amenities greatly improve the overall quality of residential developments, and also provide an important public benefit by providing residents and guests with on-site access to recreational and other facilities that otherwise may be in short supply in the surrounding neighborhood.

The Code defines an accessory use, in part, as "a use which is customarily incidental to that of the main building or the main use of the land and which is located in the same zone or a less restrictive zone and on the same lot with a main building or use." The Code allows accessory uses by right in the R3, R4 and R5 multiple dwelling zones, thereby reinforcing and encouraging the real estate industry's practice of providing amenities in residential buildings. In light of this Code provision, and because adaptive reuse projects involve converting existing buildings to new residential uses, it is reasonable to conclude that the definition of "adaptive reuse project" also covers accessory uses.

This conclusion is consistent with the ordinance's objective to revitalize downtown by encouraging residential projects. An effective way to increase the economic viability of these developments, and thus contribute toward downtown's revitalization, is by providing beneficial accessory uses. Given this objective, it can be concluded that the ordinance was not intended to exclude the provision of accessory uses that are a typical component of residential developments, and that may be necessary to attract residents and guests in an evolving and still largely unestablished market.

#### New Floor Area

The Downtown Adaptive Reuse Ordinance includes a variety of incentives, exceptions and other provisions; the ordinance's six incentives are spelled out in Paragraph (h) of Section 12.22-A,26 of the Code. With the exception of mezzanines, as set forth in Subparagraph (1) of Section 12.22-A,26(h), the ordinance states that these incentives "shall not apply to any new floor area that is added to an Adaptive Reuse Project."

Because the ordinance doesn't define what is meant by "new floor area", the Code's definition of floor area governs. The Code defines floor area as "that area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing building-operating equipment or machinery, parking areas with associated driveways and ramps, space for the landing and storage of helicopters, and basement storage areas". Consequently, any existing building will usually consist of portions that are defined as "floor area", and portions that are not.

Since an adaptive reuse project means a "change of use ... in all or any portion of any eligible building", it's reasonable to conclude that the ordinance was not intended to limit the area in an eligible building that may be converted to an adaptive reuse project to those existing portions that are strictly defined as "floor area". Instead, the ordinance was intended to apply to all existing usable space in an eligible building.



On the other hand, the ordinance was not intended to apply to additions that would significantly enlarge an eligible building, since that would be inconsistent with the concept of adapting an existing structure for a new use. Accordingly, with the exception of mezzanines, the ordinance's incentives were not applied to "new floor area" added to an eligible building.

A strict reading of the ordinance could suggest that changing the use of certain portions of an eligible building does *add* "new floor area". Such an overly literal conclusion would be absurd, however, since the change of use would not actually enlarge the building by even a single square foot. Since a prime objective of the ordinance is to reduce vacant space, the conversion of any existing portions of an eligible building for an adaptive reuse project is consistent with the ordinance's intent. Even if such conversion results in the technical reclassification of some portions of an eligible building as "new floor area", the entire adaptive reuse project should benefit from all of the ordinance's incentives, exceptions, and other provisions.

A related issue concerns adaptive reuse projects that involve interior demolition. The removal of existing portions of an eligible building is usually necessary to effectuate an efficient floor plan and project design that accommodates the new residential and accessory uses. Such removal also may be necessary to make room for upgraded building systems, including new elevators and other mechanical equipment, and to comply with building and fire code provisions that are a condition of the permit.

Such demolition and removal may create leftover empty space. A question has been raised as to whether filling this empty space with new residential and accessory uses adds "new floor area".

If the newly constructed areas are located within the eligible building's existing exterior walls below the existing roof (with the exception of new rooftop structures, as further discussed below), and if the new areas do not exceed the area of the demolished and removed portions, then the building has not actually been enlarged. The building's interior has merely been reconfigured.

The newly constructed areas should therefore not be considered as adding new floor area that enlarges the existing building. Instead, these areas should be considered as integral components of an adaptive reuse project, and therefore fully entitled to benefit from the ordinance's incentives, exceptions, and other provisions. New interior construction to replace demolished and removed portions of an eligible building is consistent with the adaptive reuse concept, and furthers the ordinance's purpose, which is to facilitate the complete conversion of economically obsolete buildings to new, more productive uses.

#### New Rooftop Structures

Existing roofs are usually the site of a variety of structures, such as elevator penthouses or mechanical rooms, that provide a support and/or accessory function to a building's main use. For new residential developments, the rooftop is often the site of common open space areas and accessory structures, including fitness and recreation rooms, pools, tables and benches, and similar features and facilities.



The Code's open space regulations, as set forth in Section 12.21-G, specify that roof decks may be used for common open space. As set forth in Section 12.21.1-B,3, the Code also permits roof structures housing elevators, stairways, tanks, ventilating fans, or similar equipment to be erected above applicable height limits. These two Code provisions recognize that the rooftop is a unique feature that is often the only viable location for a building's necessary system components - or, in the case of accessory structures and uses, the best location. This is especially the case for adaptive reuse projects, where the new uses must be accommodated within the building's existing exterior walls, and the lot is too small to allow for the construction of entirely new structures without encroaching on the building's existing footprint.

Since the Code excludes roofs from the definition of "floor area", the construction of new rooftop structures could be considered as adding new floor area that enlarges an eligible building. The new rooftop structures would not benefit from the ordinance's incentives, exceptions, and other provisions, even though the structures themselves would be necessary and integral components of the adaptive reuse project.

Since the roof is an existing portion of an eligible building, reusing it as the platform for new accessory structures is essentially no different from adapting portions below the roof to new uses. In some cases, developers may wish to use the roof as the top story of a multiple story dwelling unit, guest room, or joint living and work quarters, creating "townhouse-style" units. Since a complete and separate new dwelling unit, guest room, or joint living and work quarters would not be constructed, this approach is still consistent with the adaptive reuse concept. The new structures would not be independently accessible. Rather, they would be functionally and architecturally integrated extensions of the new uses provided below the roof that would not enlarge the building beyond what would be permitted for accessory uses.

For these reasons, the construction of new rooftop structures necessary to fulfill the conditions of the permit; to provide accessory uses or open space areas that are typical components of residential developments; and to provide additional floor space for "townhouse-style" residential uses provided both below and above the existing roof of an eligible building; is consistent with the adaptive reuse concept. If these structures do not exceed one story, then they should not be considered as adding new floor area that enlarges an eligible building, even if they exceed any applicable height limits. Instead, the structures should be considered as integral components of the adaptive reuse project entitled to benefit from all of the ordinance's incentives, exceptions, and other provisions.

#### Open Space Areas

One way for developers to increase the marketability and viability of adaptive reuse projects is to provide desirable common and private open space amenities typically provided in new residential construction. Balconies, patios, terraces, recreation and fitness rooms, pools, and gardens are examples of such desirable amenities.

For adaptive reuse projects, the challenge is provide these amenities by reusing existing portions of older buildings originally designed and constructed for non-residential purposes. Such existing portions may include interior space, lobbies, fire



escapes, rooftops, mechanical rooms, elevator shafts, stair shafts, or elevator penthouses, either above or below the existing roof. A question has been raised as to whether existing portions of an eligible building reused to provide open space should still be considered as floor area, or considered as adding new floor area.

To the extent that classifying such open space amenities as floor area imposes a barrier to the successful conversion of eligible buildings, this barrier should be removed as contrary to the ordinance's fundamental purpose, which is to facilitate the conversion of eligible buildings to residential uses. If existing portions of an eligible building are reused to provide open space, then the building has not actually been enlarged. For these reasons, any existing portions of an eligible building that are converted to open space should no longer remain classified as floor area.

However, any newly created open space areas should still be included in determining compliance with the floor area standards set forth in Section 12.22-A,26(i) of the Code. This regulation establishes a minimum floor area standard of 450 square feet and a minimum average floor area standard of 750 square feet for dwelling units and joint living and work quarters. These standards were intended to facilitate the habitability and quality of the adaptive reuse project. Such open space areas are desirable residential amenities for the exclusive use and benefit of the residents and guests who will occupy the adaptive reuse project. In a sense, these open space areas are extensions of the interior living spaces. Accordingly, both common and private open space areas should be included in calculating compliance with the minimum floor area and minimum average floor area standards. This will provide an incentive for adaptive reuse projects to provide the same kind of open space amenities typically provided in new residential buildings. Conversely, adaptive reuse projects that choose to provide these amenities will not be penalized by having open space subtracted from the determination of minimum floor area and minimum average floor area for dwelling units and joint living and work quarters.

#### Use of Existing Parking Spaces

One of the Downtown Adaptive Reuse Ordinance's main incentives relates to required parking. As the staff report to the City Planning Commission dated May 28, 1998, states, "Many older buildings, especially historic structures, do not have enough existing parking to meet current Code requirements associated with a change of use." (CPC 95-0343 CA). Since additional parking generally cannot be accommodated on the site of existing buildings, especially historic and other older buildings in downtown Los Angeles, imposing Code required parking could cause an undue hardship.

The ordinance seeks to ease this hardship by making the "required number of parking spaces" the same as the parking that existed on the site on June 3, 1999. To preserve whatever minimal parking might exist on-site, the ordinance also included a requirement that this parking be maintained and not reduced. A question has been raised as to whether the ordinance requires that all of this existing parking be dedicated for the exclusive use of the persons, families or guests who will occupy the adaptive reuse project. This question is especially pertinent since some non-historic office buildings converted to adaptive reuse projects may have on-site parking that actually exceeds what the Code would require if the ordinance had not been adopted and taken effect.

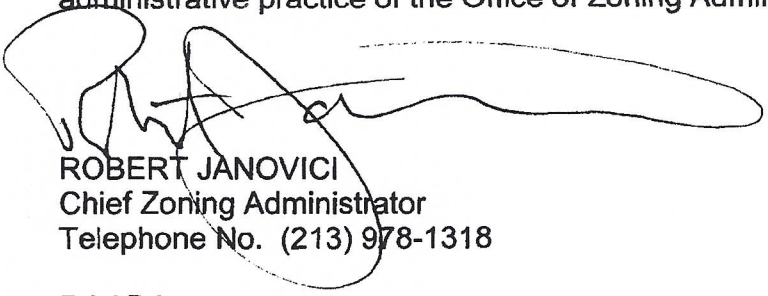
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As further stated in the staff report to the City Planning Commission, part of the parking incentive's rationale is "to provide developers with the flexibility necessary to pursue creative fixes to the parking problem ...". In other words, developers should have the option to allocate a building's parking spaces for on-site uses, as necessary, or if justified, to enter into shared parking arrangements that provide parking for various off-site uses. As the supply and demand for parking in the area surrounding the adaptive reuse project increases or decreases, a building owner may need to adjust his or her initial parking allocation decisions. For these reasons, it can be concluded that the ordinance's parking provisions were intended to ensure the preservation of a scarce resource, while allowing for its efficient allocation through market mechanisms.

### FINDING

For the reasons set forth above, and as more particularly described elsewhere in this determination, I find that: the definition of "adaptive reuse project" includes accessory uses; that changing the use of any portion of an eligible building does not add new floor area; that demolishing any portion of an eligible building does not add new floor area, so long as any newly constructed areas do not exceed the area of the portions removed; that open space areas created by reusing existing portions of an eligible building are not floor area or new floor area that enlarges an eligible building, but may be counted toward determining compliance with the minimum floor area and minimum average floor area standards for dwelling units and joint living and work quarters; that new one-story rooftop accessory structures (including the top stories of multiple-story dwelling units, guest rooms, or joint living and work quarters) do not add new floor area if built on the existing roof of an eligible building; and that existing parking may be used to provide parking for any on-site or off-site use.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.



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RJ:AB:Imc



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March 19, 1993

Re: CASE NO. ZA 93-0004(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - REFILING  
OF SAME APPLICATION  
Citywide

Periodically, an applicant desires to refile the same or virtually the same request as had been previously filed and was either denied or the applicant is unsatisfied with the terms and conditions of a grant and the question arises as to the appropriate procedure to follow in the absence of a written memorialization.

Our Office has followed a practice of prohibiting such filing unless either: 1) a one year period has transpired between the time of the original filing and the current date or 2) the requested project is changed in some significant way from that which was originally applied for and acted upon. After research and review, it has been determined that the policy must be revised and this instant document shall serve as the written memorialization of the policy of this Office.

The reasons for a policy regarding refiling of applications are readily obvious:

1. The system should render final decisions in order to engender public confidence.
2. Forum shopping should be discouraged.
3. The public should have confidence that an applicant does not have the ability to manipulate the system.
4. Time taken to reconsider the same request is diverted from other viable proposals.
5. There is a substantial inconvenience to the public resulting from having to make repeated trips to attend hearings.

Under a City Attorney Opinion issued December 12, 1951, this issue was squarely dealt with though somehow left to be spread by oral legend rather

than being documented. In that instance, a written request of the Board of Zoning Appeals sought advice substantially as follows: a variance had been denied by a Zoning Administrator, with no appeal having been filed. Several months later, the same request at the same site was sought through a refiling. The Zoning Administrator determined that there had been no substantial change in circumstances or conditions occurring since the decision on the first application and the filing of the second application, and consequently dismissed the second application. This was appealed.

The City Attorney indicated the Zoning Administrator having determined that no material change had taken place since denial of the first action had no authority to grant the variance and further, consideration of the merits of the second application was unnecessary. Further, the City Attorney indicated the Board had no authority to review the determination of the Zoning Administrator with regard to the merits of the application unless the Board first determined there was a material change in circumstances or conditions since the first application was denied. The City Attorney also cited previous opinions which were supported by numerous court decisions. These opinions held that a new application may be considered only when material changes in conditions or circumstances have occurred since the original action was taken.

What the City Attorney Opinion does not specifically treat is establishment of a time period which must elapse before a refiling may take place and in evaluating such issue, it seems unnecessary inasmuch as if there is a subsequent valid refiling, there has to have been a finding that material conditions or circumstances have changed in any event. As noted previously, this Office had applied two alternative tests relating to time and nature of the change. It is seen from review of the City Attorney's Opinion that the former test is unnecessary and will henceforth not be applied.

This determination shall be published in accordance with Section 12.27-D of the Los Angeles Municipal Code.



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RJ:lmc



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September 1, 1993

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Re: CASE NO. ZA 93-0823(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION -  
PERMISSIBILITY OF TELEVISION  
STATIONS  
CITYWIDE

Department of Building and Safety

Based upon my review of various documents you have submitted, and authority vested in me under the City Charter and Section 12.21-A,2 of the Los Angeles Municipal Code, I have determined that a television station and related ancillary uses are permitted uses in the M2 Zone.

The general thrust of your argument is that the M2-1 Zone is one of the least restrictive zoning designations in the Zoning Code and although a television station is not one of the expressly enumerated uses, there are several expressly permitted uses which are similar or virtually the same as the proposed use, including office uses, film or motion picture laboratories, motion picture studios, motion picture production, film and tape editing, and television broadcasting transmitters with incidental antenna towers.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed."

From documents filed with your application, I understand that you represent a client who wishes to establish a television station on a site in the M2-1 Zone in the City of Los Angeles, but that due to the fact that a television station is not specifically noted in the M2 Zone provisions, you seek a formal determination/interpretation.

Examination of the M2 Zone provisions leads to the conclusion that the proposed television station use, broken down to its individual sub-uses, is similar to several other uses which are expressly permitted in the M2-1 Zone. You indicate that approximately 80 percent of the building is intended



to be used for general office use in connection with the operation of the television station, and office uses are first permitted by right in the CR Zone (LAMC Section 12.12.2-A,1(f)). The Los Angeles City zoning regulations being Euclidean (cumulative) such use is, of course, permitted in the M2 Zone by extension.

The approximately 20 percent remainder of the building will be devoted to news and technical rooms. This space will include up to three separate news and technical rooms which will range from 2,000 to 7,000 square feet in size which is first permitted by right in the C2 Zone, provided that any projection or screening rooms associated with such use shall seat no more than one hundred persons. (LAMC Section 12.14-A,12). In fact, there will be no public assembly at the proposed television station. The news and technical rooms will include news shooting areas, editing rooms, and on-screen workstations (graphics, production unit, and studio support personnel). There will also be one control room of approximately 1,000 square feet containing technical equipment, including computers.

This use is similar to motion picture production, which is first permitted by right in the MR1 Zone (LAMC Section 12.17.5-B,5(e)). News production is not however, a Ben Hur production and is less intensive than motion picture production as it will not require the construction or use of any outdoor sets. Further, unlike motion picture production, the number of employees in the building will remain relatively constant. In contrast, motion picture production requires the periodic hiring of large numbers of part-time workers to meet the demands of various motion picture production schedules.

The M1 use list provisions set forth in the Zoning Code also expressly permits television broadcasting transmitters with incidental antenna towers. The proposed television station use is similar to such specifically enumerated use in that the television news shows produced in the building will be transmitted via the terrestrial parabolic microwave antennas on the roof of the building. (These antennas emit less than one watt of radio frequency energy and meet or exceed all applicable safety standards.) The antennas proposed for the roof of the building will be smaller and less obtrusive than television broadcasting antenna towers. The proposed antennas will be similar to the existing antennas at other stations located in the same zone as the subject property, and less than one-half the size of other antennas located on sites also zoned M2.

It is my understanding that the proposed television station will be located wholly within an existing office building. As viewed from adjacent properties or the street, the proposed television station use will be virtually indistinguishable from the previous office use and thus, the television station will not result in any adverse aesthetic, light, noise or similar impacts or impact on the public welfare.

The television station will have approximately 400 total employees working in various shifts. Typically, there will be approximately 200 employees in the building at any one time. In contrast, there were approximately 550 employees in the building when it was fully occupied with office uses. Because there will be a reduction in employees compared to the previous office use, there will be no new traffic and other impacts associated with Section 12.21-A,2 of the Los Angeles Municipal Code has also been



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February 22, 1993

Re: CASE NO. ZA 93-0228(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - Condominium  
actions involving legal  
nonconforming lots and policies  
relating to nonconforming lots  
in the RD Zones  
Citywide

Several consultants have inquired about apparent inconsistent actions by City Departments in issuing decisions on condominium requests involving legal nonconforming lots and now requiring an area variance prior to recording the final map. The Division of Land Regulations - Design Standards, Section 17.05-C and 17.05-H of the Los Angeles Municipal Code, state in part:

"Each tentative map shall be designed in compliance with the zoning applying to the property or approved by the City Council for change or shall be subject to a condition requiring compliance with such zoning prior to the recordation of the final map."

"Every lot shall have a minimum width and area to comply with the requirements as specified in Article 2 of this chapter for the zone in which the lot is located ..."

The question arises: Does a legal nonconforming lot that can be developed with more than one rental unit lose its inherent rights to be similarly developed with the same number of units but as a condominium project and therefore must obtain an area variance prior to recordation?

Sections 17.05-C and 17.05-H noted above were written to address a division of land creating lots or moving lot lines. A one lot subdivision for condominium purposes is reviewed in terms of density and development design and/or housing standards.

The question logically arises: If a lot may be developed for multiple housing without any discretionary action, does an action to allow a new structure for condominium purposes change that right of development? A

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January 6, 1994

Re: CASE NO. ZA 93-1069(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - SETBACK  
DEVIATIONS - PUBLIC PARKING  
AREAS  
CITYWIDE

*Relief from the setback and wall/fence height requirements of Sections 12.21-A,6(a) and 12.21-C,1(g) of the Los Angeles Municipal Code for a proposed public parking area may be properly considered incidental to a conditional use application seeking establishment of such parking area. For an existing public parking area, new/additional deviations from these Sections may be considered under a plan approval application as would be applicable in other instances where changes/modifications to a site with conditional use status take place.*

Issue

*Within an established methodology, the zoning regulations are organized in such a fashion that there is a flow and regularity to the manner in which a particular subject matter appears. For example, the provisions following the capital "A" subsection in the code are typically devoted to use restrictions as contrasted with height and area requirements. While far from 100% consistent in this regard, this practice is generally followed throughout the Code.*

*A question has arisen in conjunction with public parking areas (as defined in Section 12.03 of the Los Angeles Municipal Code) in residential zones where authorization as a conditional use takes place, as to the appropriate application to be filed in order to seek a lesser setback or higher wall/fence than allowed/required under Sections 12.21-A,6(a) and 12.21-C,1(g) of the Code.*

*Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:*

*"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed."*



This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

### Discussion

Historically, as the setback requirements for public parking areas were located within an "A" subsection, in keeping with the standard Code provisions, a use (zone) variance has been deemed the appropriate vehicle to seek relief. In looking to the essence of the request, however, it is seen in this case that the standard is solely a setback requirement and should be treated as such. It is inconsistent to allow a building to be permitted within that same setback via an area variance but to require a use variance in the instance of a parking area setback - so that an unreasonable barrier is created only due to location of the language within the code.

Recently, Ordinance No. 169,013 became effective and which provides in pertinent part as follows:

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"5. Conditions of Approval. In approving the location of any conditional use, the City Planning Commission or the Zoning Administrator, whichever has jurisdiction may impose such conditions as the Commission or Zoning Administrator deems necessary to protect the best interests of the surrounding property or neighborhood, or to lessen or prevent any detrimental effect thereon or to secure appropriate development in harmony with the objectives of the General Plan. The height and area regulations required by other provisions of this chapter shall not apply to conditional uses. In order to secure an appropriate development, the City Planning Commission or the Zoning Administrator, may determine the height and area regulations for conditional uses, including conditional uses lawfully existing on the date these conditional use categories became effective." (emphasis added)

This ordinance reorganized all conditional use categories allocated to the Zoning Administrator's Office into a single section of the Code, with one set of findings, and authorized the Zoning Administrator to determine the appropriate application of height and area regulations - this would include, of course, requirements relating to setback and height of buildings and fences/walls as well, in conjunction with establishment of a public parking area, a reduced setback would not require filing of a variance but only a separate determination as to the appropriate application of the height and area requirements (setback) as part of the overall decision of the case. Further, wall/fence height standards are regulated in a capital "C" subsection which is virtually always devoted to height and area matters and consequently, should be treated in the same fashion when considered incidental to a public parking area.

### Summary and Conclusion

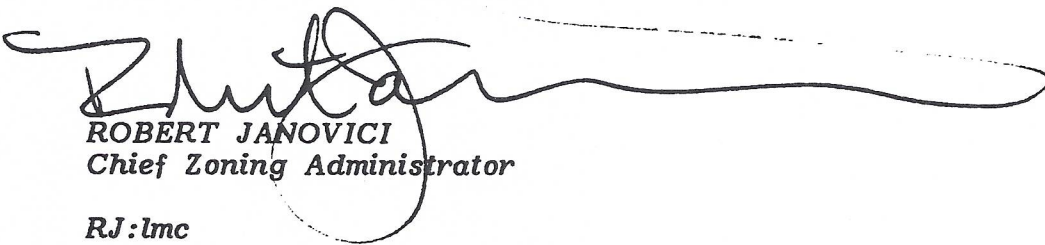
As noted, supra, over the course of years, Section 12.21-A,2 of the zoning regulations has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances. This Section has also been interpreted to include authority

to resolve conflicts between disparate narrative passages, to leap over unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's zoning regulations.

Consequently, where not otherwise regulated by a "Q" Condition, specific plan or other special regulation, deviations from Sections 12.21-A,6 and 12.21-C,1(g) of the Los Angeles Municipal Code for a proposed public parking area shall be treated as area matters and considered incidental to a conditional use permit (with the payment of the appropriate fee) if filed at the same time as such conditional use application or under a plan approval application if filed separately.

As the zoning regulation should be interpreted in a manner as to observe substance over form, the placement of the provision in the Code should not be dispositive of the issue - but rather the true essence of the subject matter regulated should control. Accordingly, henceforth these matters shall be resolved as noted.

This determination shall be published in accordance with Section 12.27-D of the Los Angeles Municipal Code.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc



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September 4, 1996

1255-15 More = 20

**Interested Parties**

CASE NO. ZA 96-0778(ZA1)  
ZONING ADMINISTRATOR'S  
INTERPRETATION -  
SECTION 12.21-C,5(h), LOS  
ANGELES MUNICIPAL CODE

*The approval of a parking lot or structure in a more restrictive zone than the adjoining use it serves does not also require a variance from Section 12.21-C,5(h) of the Los Angeles Municipal Code.*

**Background**

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed."

This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

Section 12.21-C,5(h) of the Los Angeles Municipal Code provides:

"(h) No accessory building or use shall be located on property in a more restrictive zone than that required for the main building or main use to which it is accessory. The relationship between the more restrictive and the less restrictive zones shall be determined by the sequence of zones set forth in Section 12.23-B,1(c).

The basis for the Code Section is that property in a more restrictive zone should not automatically be permitted to serve for activities first permitted in a less restrictive zone solely based upon its proximity to the former and common ownership or development scheme. Otherwise, the more restrictively zoned property will automatically be utilized in a manner as though a zone change occurred on it.



As example of this situation would be where property in an A or R Zone abuts property in a commercial zone and the owner of the commercial use wishes to utilize the A or R zoned property for parking or storage. In either case, either a conditional use permit for parking or a variance for storage would be required to conduct the use.

Inferred in either case if the approval were granted, is also authorization to utilize the more restrictively zoned property in contravention of Section 12.21-C,5(h) above. However, no separate variance from Section 12.21-C,5(h) is required in addition to the conditional use or variance as it would merely lead to excess process and fees and the land use impacts would have already been considered.

As noted, supra, over the course of years, Section 12.21-A,2 of the zoning regulations has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances.

This Section has also been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's zoning regulations. It is in such spirit that this determination has been issued.

This determination shall be published pursuant to Section 12.21-D of the Los Angeles Municipal Code.



ROBERT JANOVICI  
Chief Zoning Administrator

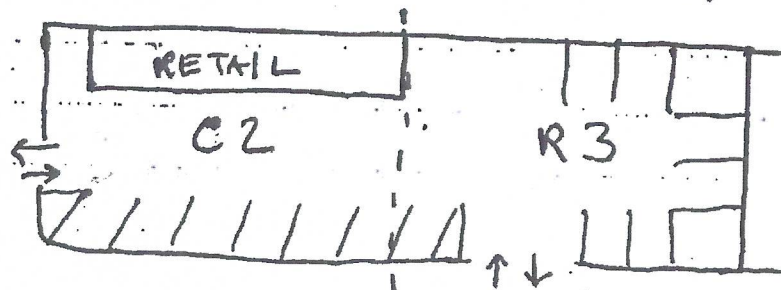
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LESS RESTRICTIVE TO MORE RESTRICTIVE  
USE OF LOTS

Section 12.21 C 1 (b)

Although this section of the code does not clearly state it, it has been interpreted by Bldg and Safety to restrict accessing a lot from ~~the~~ a <sup>less</sup> restrictive lot.



In the above example this project needs a variance because the R3 portion is also taking access from a C2 less restrictive lot.

(NOTE: It also needs a CUP for parking in R zone)

+ YV for front yd. pkg. in R zone

12.21 C 5 (4)

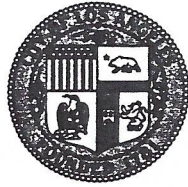
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November 7, 1995

Robert S. Horii  
City Engineer  
650 South Spring Street, #200  
Los Angeles, CA 90014-1911

CASE NO. ZA 95-0856(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - SECTION 12.37  
OF THE LOS ANGELES MUNICIPAL  
CODE

*The Bureau of Engineering has complete authority within its discretion to determine the extent of street dedications and improvements necessary under Section 12.37 of the Municipal Code where a final variance or conditional use approval has been issued and where the Zoning Administrator has imposed a condition on the development authorizing such discretion to be utilized.*

*Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:*

*"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed."*

*This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.*

**BACKGROUND**

*Section 12.37 of the Los Angeles Municipal Code provides generally that before issuance of a building permit for property in specific zones on designated categories of streets may take place, the abutting street(s) must be dedicated and improved to meet certain improvement standards provided in Section 12.37-H of the Municipal Code, "... insofar as such is practical and will not create an undue hardship."*

*Also, Section 12.37-H,4 of the Municipal Code provides:*

*"4. The City Engineer may approve and allow such variations from the aforesaid requirements as he determines are made necessary by the conditions of the terrain and the existing improvements contiguous to the property involved."*





A question has arisen with regards to the applicability of the standards set forth in Section 12.37-H in a situation where a final discretionary action by the Zoning Administrator is necessary to permit the construction of the building at hand. More specifically, where the Zoning Administrator has by the express terms of their action authorized the Bureau of Engineering to require or not dedications/improvements as that Agency sees as appropriate by use of the phrase:

"The applicant shall dedicate and improve all streets and highways adjoining the subject ownership, including street trees and street lights, to the satisfaction of the Bureau of Engineering."

The bottom line question is under these circumstances, may the Bureau of Engineering require dedications/improvements to a lesser degree than called for under Section 12.37-H.

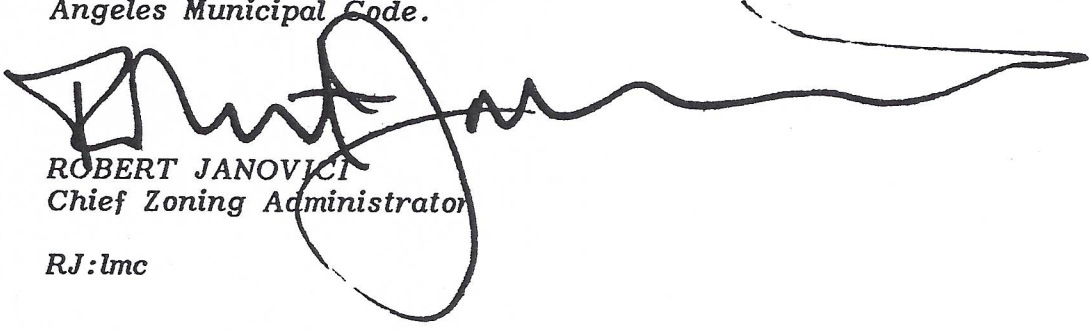
### RESPONSE

The answer to this question is YES, for dual reasons: the wording of Section 12.37-H,4 ("variations" noted, supra) as well as the fact that the broad authority of the Zoning Administrator extends to issuing deviations from the provisions of the zoning regulations and use of phraseology authorizing the Bureau of Engineering to exercise its professional judgement allows for the site specific appropriate standard(s) to be followed in a particular case rather than that Bureau of Engineering being totally eclipsed with regards to exercising its professional judgement.

As noted, supra, over the course of years, Section 12.21-A,2 of the zoning regulations has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances.

This Section has also been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary bureaucratic hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's zoning regulations.

This determination shall be published pursuant to Section 12.27-D of the Los Angeles Municipal Code.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

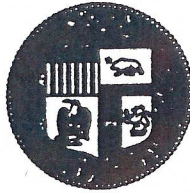
CITY OF LOS ANGELES  
CALIFORNIA

9/18/95 Z

ROBERT JANOVICI  
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ASSOCIATE ZONING ADMINISTRATORS

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ALBERT LANDINI  
WILLIAM LILLENBERG  
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JON PERICA  
HORACE E. TRAMEL, JR.



RICHARD J. RIORDAN  
MAYOR

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CON HOWE  
DIRECTOR

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August 17, 1995

**Interested Parties**

CASE NO. ZA 95-0614(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - CONDITIONAL  
USE CATEGORIES - USES  
PERMITTED BY RIGHT IN  
CERTAIN ZONES

Ever since the dawn of construction, developers have had a question as to whether uses included in conditional use categories (where the language of the Code is to generally describe a zone category(ies)) (e.g., "R" Zones) may still be permitted by right in certain specific zones or whether establishment of such uses always require a conditional use permit. The answer is that certain uses within the conditional use categories may be allowed by right in certain zones but require a conditional use permit in others. This determination will provide guidance in ascertaining the answer in any individual situation.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator - The Administrator shall have authority to determine other uses in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgement, such other uses are similar to and no more objectionable to the public welfare than those listed."

This provision has also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

**BACKGROUND**

By way of example, two provisions of the Code applicable to the Planning Commission and another to the Zoning Administrator are used for illustrative purposes.

Sections 12.24-B,5 and 12.24-B,8 of the Los Angeles Municipal Code establish as Planning Commission conditional uses:

"5. Educational Institutions"

"8. Libraries, Museums ... which are controlled by this article."



(In each of the above examples, there is no designation of a specific zone category in which an educational institution, or library, or museum requires a conditional use permit).

Further, Section 12.24-C,49, lists as Zoning Administrator conditional use categories:

"49. Hospitals or sanitariums in the A, R, CR, C4, CM or M Zones and in the C1 or C1.5 if not permitted by right."

The question is whether there is any zone in which one may establish an educational institution, or library, or museum by right or whether there is an R or C Zone which allows a hospital by right.

### Discussion

In reviewing the provisions of the R4 Zone and the use list adopted under Case No. ZA 94-0288(ZAI), it is seen that in fact, an educational institution is listed as a permitted use in such zone category. Also, a library and museum are permitted by right in various R and C Zones. Likewise, in reviewing the provisions of the R5 and the C2 Zones, it is seen that a hospital is listed as a permitted use.

While the zoning regulations are complicated, complex and arcane, they are meant to be reasonable and fair, as well as internally consistent. There are of course, certain provisions which are capable of differing interpretations. However, any reading of the Code must assume logic to be a basic ingredient as infused within the zoning regulations.

Therefore, the inescapable conclusion must be that certain uses designated as a conditional use are not necessarily in all cases only capable of being established by the conditional use process in every zone and one must review specific zone categories and the officially adopted use lists to see if the use is also listed as permitted within some zone category.

As noted, supra, over the course of years, Section 12.21-A,2 of the zoning regulations has been drawn upon to provide some rational result from application of various sections of the Code to an individual set of circumstances.

This Section has also been interpreted to include authority to resolve conflicts between disparate narrative passages, to transcend unnecessary hurdles, and to provide logical results from sometimes arcane, esoteric, nuances obscured within the City's zoning regulations. This determination accomplishes those goals.

This determination shall be published pursuant to Section 12.27-D of the Los Angeles Municipal Code.

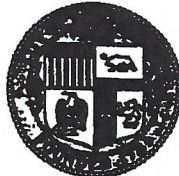


ROBERT JANOVICI  
Chief Zoning Administrator



ROBERT ROGERS  
Chief Hearing Examiner To The  
City Planning Commission/  
Associate Zoning Administrator

CITY OF LOS ANGELES  
CALIFORNIA



TOM BRADLEY  
MAYOR

ROBERT JANOVICI  
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ROOM 800, CITY HALL  
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(213) 485-3851

November 19, 1991

David Ross, Attorney  
6404 Wilshire Boulevard #950  
Los Angeles, CA 90048

91-1025(ZAI)  
ON -  
COMING IN

By written request, an in  
grooming of dogs and cats  
concluded that a store which  
including trimming nails is not

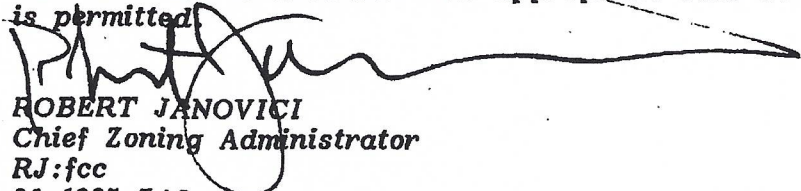
to whether  
one. I have  
ing of dogs

It is argued by the applicant on the one  
hand, permit a pet shop, but an, would  
allow the grooming of dogs and daytime  
veterinary services. It is also permit  
a veterinary clinic, which wh the medical needs of  
animals might also include a s as grooming, but typically would  
not.

The use list in a very limited fashion allows a "pet store" restricted to the  
sale of song birds or tropical fish. It is unclear whether a fish which can  
carry a tune would be permitted. On the other hand, a feed store is  
permitted in the C2 and less restrictive commercial and some industrial  
zones. The instant use is a hybrid having features of each and is difficult  
to categorize as it is comprised of many uses.

Due to the lack of clarity in the Code and Use List, I conclude that any  
action on my part would exceed an interpretation and would constitute  
legislating. Also, it is not possible to condition a use authorized under an  
interpretation. Therefore, such activities are not to be deemed permitted  
in the C4 Zone.

Section 12.21.A.2 of the Los Angeles Municipal Code permits the Zoning  
Administrator to determine the appropriate zone in which an undesignated use  
is permitted.

  
ROBERT JANOVICI  
Chief Zoning Administrator  
RJ:fcc  
91-1025 ZAI



# CITY OF LOS ANGELES

CALIFORNIA



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ROOM 600, CITY HALL  
LOS ANGELES, CA 90012-4801  
(213) 485-3851

August 26, 1993

Hector Buitrago  
Zoning Engineer  
Department of Building and Safety  
Room 460-B, City Hall  
STOP 115

Re: CASE NO. ZA 92-1171(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - Determination  
of Required Parking For Karaoke  
Performances  
Citywide

A request has been made to classify and provide for regulation of "Karaoke" performances, a form of entertainment where an individual or group of persons sing along to recorded music with the performance even aurally taped or videotaped either incidental to an existing use (e.g., a bar or restaurant) or as a main use where an individual leases/rents for distinct time increments an enclosed area of a building or booth and then is provided with refreshments and food, tables, chairs, background scenery and equipment which will record the singing performances. The individual(s) participating may even bring in friends or an audience to witness the performance within these individual areas. For the reasons noted infra, I have concluded that such uses be treated as nightclubs for the purpose of determining the appropriate application of the parking regulations and consequently Section 12.21-A,4(c)(3) and (4) of the Los Angeles Municipal Code applies.

## BACKGROUND

Correspondence and documents received from the Department of Building and Safety includes petitions received from owners of restaurants, cafes and "karaoke clubs" concerning activities which they claim occur within the "soundrooms" as they refer to them, which are the individual leased spaces within a storefront. These materials were sent to the City Attorney and subsequently referred to the Department of Building and Safety for disposition. The Department of Building and Safety has in turn, requested review by this Office.

While the motivation of the authors of the petition may have more to do with economic competition than concern over appropriate mitigation of land use impacts, nonetheless, the description of the activities themselves provide background material which supports the application of nightclub parking requirements to these facilities as well. Further, discussions with personnel of the Department of Building and Safety over the past few weeks corroborates the depiction of the nature of the activities generally.



ANALYSIS

In reviewing the various provisions of the Municipal Code, it appears the subject use is most akin to a nightclub in form and substance, whether or not alcoholic beverages are made available/dispensed on the premises. In reviewing the recently adopted parking regulations which comprehensively treat required parking for various uses, it is noted that:

Section 12.21-A,4(c)(3) and (4) of the Los Angeles Municipal Code provides in pertinent part:

"(3) Restaurants and Bars, General: There shall be at least one automobile parking space for each 100 square feet of gross floor area included within the total square footage of any restaurant, cafe, coffee shop, tea room, bar, nightclub, or any similar establishment, which dispenses food or refreshments or provides dancing or live entertainment. ..." (Emphasis added)"

"(4) Restaurant, Small: "... if such an establishment has a separate bar, or provides dancing or live entertainment, then additional parking shall be provided ..." with at least one automobile parking space for each 100 square feet of gross floor area.

These facilities as described previously are a "similar establishment" which normally and regularly provides "live entertainment", food and other refreshments, and is the functional equivalent of such uses; therefore, the same parking requirements are appropriately applicable - i.e., one space per 100 square feet of gross floor area.

Section 12.21-A,2 of the Los Angeles Municipal Code provides in pertinent part as follows:

"2. Other Uses Determined by Administrator. The Administrator shall have authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in ... [the Administrator's] judgement such other uses are similar to and no more objectionable to the public welfare than those listed."

Accordingly, based upon the foregoing, I hereby determine that in any of those establishments described supra, wherein live performances take place, such facilities shall be considered as nightclubs for the purpose of the parking provisions of the zoning regulations irrespective of whether the performer can carry a tune.

Consistent with the previous holding of the Department of Building and Safety, it should be borne in mind that these facilities which commonly operate during extended hours, may require corner commercial review or a conditional use permit if located within a mini-shopping center.

This determination shall be published pursuant to Section 12.27-D of the Los Angeles Municipal Code.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc



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March 30, 1990

Honorable Board of Zoning Appeals Re: CASE NOS. BZA 4188 and  
200 North Spring Street ZA 89-1339(ZA1)  
Los Angeles, CA 90012

SUPPLEMENTAL REPORT  
INTERPRETATION OF SECTION  
12.21.1-B,2 OF THE L.A.M.C.-  
MEASUREMENT OF HEIGHT OF  
BUILDINGS ON SLOPING LANDS

On February 20, 1990, I transmitted to you the file on the appeal by Mr. Walter Abronson (appellant) from the Zoning Administrator's interpretation of Section 12.21.1-B,2 of the Los Angeles Municipal Code (Code) which sets forth an exception to the height regulations contained in Section 12.21.1-A of the Code. Briefly, that section states in part the following:

"When the elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of a building exceeds grade by more than 20 feet, a building may exceed the height in number of feet prescribed in this section by not more than 12 feet."

Accompanying the appeal are exhibits attached to the file and the Chief Zoning Administrator's interpretation dated February 1, 1990.

The appellant has appealed the entire action and determination, the attachment to the appeal states:

..."The Zoning Administrator erred. In fact, Height District 1XL did exist as far back as the 1980 Zoning Code (Sec. 12.21.1A1). Further, the method of measuring the height of a building on sloping ground was addressed in Sec. 12.21.1B2 of the same code as follows (see Exhibit A; emphasis added):

"2. Buildings or structures erected on sloping ground may exceed the height in number of feet, prescribed in this subsection, insofar as such additional height may be required to overcome differences in adjoining sidewalk or ground elevations, but no building or structure shall exceed the specific height limit for the district in which it is located, measured from the highest point of the adjoining sidewalk or ground level, nor shall any such building or structure exceed the specified height limit by more than 15 feet measured from any other point of the adjoining sidewalk or ground level. No

such building shall have more stories than hereinabove provided."

Note that in the 1980 Zoning Code, the exception cited above prohibited a building from exceeding a height permitted in its height district.

The 1989 Zoning Code (see Exhibit B) addresses the height of a building on sloping land (Sec. 12.21.1 B2) as follows (emphasis added):

"2. When the elevation of the highest adjoining sidewalk or ground surface within a five foot horizontal distance of the exterior wall of a building exceeds grade by more than 20 feet, a building or structure may exceed the height in number of feet prescribed in this section by not more than 12 feet. However, no such additional height shall cause any portion of the building or structure to exceed a height of 45 feet, as measured from the highest point of the roof structure or parapet wall to the elevation of the ground surface which is vertically below said point of measurement."

Although the framers of the code specifically changed the section limiting the maximum height from "the specified height limit for the district in which it is located" (in the 1980 Code), to "may exceed the height in number of feet prescribed in this section by not more than 12 feet" (in the 1989 Code), the Zoning Administrator argues that this was not their intent.

This controversial ordinance was scrutinized by the Planning staff, was submitted to industry for comment and was the subject of public hearings before the Commission and Council. And yet the Zoning Administrator believes "a strict or literal reading of this Code section is not what is either intended or meant" by "[no] portion of the building or structure to exceed a height of 45 feet," and suggests that the section should be interpreted to revert to language similar to - and achieving the result of - the 1980 version, which was changed by ordinance!

The Zoning Administrator's interpretation (emphasis added):

"2. When the elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of a building exceeds grade by more than 20 feet, a building or structure may exceed the height in number of feet prescribed in this section by not more than 12 feet. However, no such additional height shall cause any portion of the building or structure to exceed a height in number of feet prescribed by this section, as measured from the highest point of the roof structure or parapet wall to the elevation of the ground surface which is vertically below said point of measurement."

From the reading of the 1989 Zoning Code, it is apparent that Sec. 12.21.1 A1, Amended by Ord. No. 161,684, Effective 11/8/86, and



Exception in Sec. 12.21.1 B2 amended by Ord. No. 160,657, operative 6/3/86, were reviewed within five months of each other and were issued as a change to the code at the same time.

Therefore, it seems that the purpose of this exception is to provide a benefit to those buildings which are extremely restricted in height and have the additional problem of coping with a sloping site and to provide a limit on the mass of a building constructed on a slope. It is our contention that the amended section in the current Zoning Code was rewritten to permit the additional height."...

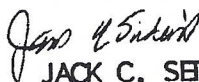
Page Number 2 of the Zoning Administrator's February 1, 1990 interpretation states as follows:

..."Because I believe a strict or liberal reading of this Code section is not what is either intended or meant by the City Planning Commission, City Council or Mayor on enacting Section 12.21.1-B,2 of the Code, I believe the following understanding of this section is appropriate:

"2. When the elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of a building exceeds grade by more than 20 feet, a building or structure may exceed the height in number of feet prescribed in this section by not more than 12 feet. However, no such additional height shall cause any portion of the building or structure to exceed a height in number of feet prescribed by this section, as measured from the highest point of the roof structure or parapet wall to the elevation of the ground surface which is vertically below said point of measurement."

This would allow on the "1XL" designated properties where this exception is applicable a maximum building height of 42 feet but at no single point using the "plumb line" approach would the building be permitted to exceed 30 feet in height. Similarly, in a "1L" designated property in the R4 and less restrictive zones where this exception applies, a maximum height of 87 feet would be allowed but within a single portion of the building nothing exceeding 75 feet would be allowed as measured with the "plumb line" method."...

The appellant appears to be correct about the "1XL" district being in the 1980 Code. Irrespective of the appellants' arguments, there is no indication in the case file that there was even any intent to liberalize the Code interpretation for the height of building in the 1XL height district on a sloping lot. My interpretation would still be an appropriate reading of the Code. Therefore, it is deemed that the appeal should be denied and the determination of the Zoning Administrator dated February 1, 1990 should be sustained.

  
JACK C. SEDWICK  
Associate Zoning Administrator

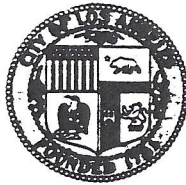
JCS: lmc

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Room 600, City Hall  
Los Angeles, CA 90012-4801  
(213) 485-3851

April 20, 1990

Warren O'Brien, General Manager  
Department of Building and Safety  
Room 411, City Hall  
STOP 115

Re: CASE NO. ZA 90-0080(7A1)  
INTERPRETATION OF SECTION 12.03  
ACCESSORY LIVING QUARTERS  
AND KITCHEN FACILITIES

James K. Hahn, City Attorney  
Office of the City Attorney  
Room 1800, City Hall East  
STOP 140

Richard Sanchez, Chief Inspector  
Department of Building and Safety  
500 Shatto Place, #520  
STOP 115

Both the Department of Building and Safety and the Office of the City Attorney have requested an interpretation of the definition of "accessory living quarters" and "kitchen" as defined in Section 12.03 of the Los Angeles Municipal Code (Code). That section defines these terms as follows:

Accessory Living Quarters - An accessory building used solely as the temporary dwelling of guests of the occupants of the premises; such dwelling having no kitchen facilities and not rented or otherwise used as a separate dwelling unit. (Added by Ord. No. 107,884, Eff. 9/23/56)

Kitchen - Any room or any portion of a dwelling unit, whether an enclosing subdivision thereof or otherwise, used or intended or designed to be used for cooking and preparing food, except a light housekeeping room or that portion of a recreation room in a multiple residential use, or in an accessory building appurtenant thereto, containing facilities for the cooking and preparation of food. (Amended by Ord. No. 140,191, Operative 10/21/70)

It is specifically requested that the interpretation answer the following question: What measure of time the Department of Building and Safety should apply as is used within and as part of the definition of "Accessory Living Quarters" where the term "temporary" is used, and what the term "facilities" includes as is used within and as part of the definition of "Kitchen" where the term "Kitchen facilities" is used.



This interpretation will deal first with the intent of the Code as it relates to accessory living quarters, then deal with the more complex issue of kitchen facilities as it relates to accessory living quarters.

It is clearly the intent of the Code that accessory living quarters (quarters) are permitted in order to provide lodging for occasional visitors or guests in separate quarters from the primary residential dwelling on the property. Said quarters serve as a guest bedroom and bath which either may not be available in the main house or is intended to reduce the inconvenience and loss of privacy created by visitors in one's home. Over the years these quarters have tended to grow, often containing not only a bedroom and bath but living rooms, recreation rooms and perhaps more than one bedroom, taking on the appearance of another dwelling unit except they lacked kitchen facilities.

As housing prices have increased and the supply of affordable housing has decreased, there seems to be continuing pressure to create rental units out of accessory living quarters resulting in continuous occupancies rather than occasional visits. The City Council has addressed this need by adopting ordinances which permit "granny flats" and second dwelling units on a lot through the conditional use process. There are three Code prescribed legal deterrents which are incorporated within the definition itself. First, it specifically provides that such facilities may not be rented, extremely difficult to enforce. Second, an accessory living quarters is to be used solely as the "temporary" dwelling of guests, however, the term "temporary" has never been precisely defined, making this provision difficult to enforce. It would appear appropriate to define "temporary" as a period of less than the standard 30 day month normally used as a rental period but still long enough to adequately serve as a guest stop by vacationing family or friends. Lastly, the Code prohibits "kitchen facilities" which used to be easy to enforce by prohibiting a stove and oven. However, as technological advancements continue to expand the variety of "cooking" devices, using a stove or oven as the singular criteria appears outdated. Such cooking devices as microwave ovens, toaster ovens, hot plates, electric frying pans, woks, donut makers, waffle irons, etc., are all items which only require a 110 AC electrical outlet to cook food. It has proven to no longer be practical to attempt to use cooking devices exclusively as the "kitchen facilities" identified to determine if a kitchen exists.

Therefore, in light of the aforementioned issues, it is hereby determined that the word "temporary" as it applies to the "temporary dwelling of guests of the occupant" shall mean a maximum of 28 days unless the guests are family members using the quarters as an extension of the house. Further, that a minimum of 14 days shall pass between visits by the same individuals, thereby avoiding long term visits by a visitor who might be tempted to leave for a day and then stay for another 28 days and so on. Said interpretation of "temporary" permits an objective evaluation on the part of City staff, lessening the potential for abuse on the part of the public as well as inconsistent interpretations by City staff.

It is further determined that "kitchen facilities" as it applies to "such dwelling having no kitchen facilities" shall mean any portion of an accessory living quarters arranged for or conducive to the preparation or cooking of food, as evidenced by the inclusion of one or more of the following:

- A. Natural gas outlet (except in separate room which excludes C-1 below)
- B. 220 AC electrical outlet (except in separate room which excludes C-1 below)
- C. Double sink
- D. Bar sink exceeding one square foot
- E. Hot water line to bar sink.
- F. Refrigerator exceeding 10 cubic feet or place designed for it.
- G. Garbage disposal
- H. Dishwasher or space designed for it.
- I. Any device designed for cooking or heating of food
- J. Total counter space exceeding 10 square feet

While this detail may appear extreme on the surface, any or all of the above are necessary or involved with food preparation, cooking and clean-up, and therefore should be included. Said interpretation permits an objective evaluation on the part of City staff, lessening the potential for abuse on the part of the public as well as inconsistent interpretations by City staff.

This interpretation or ruling is to be published in a daily newspaper of general circulation as a rule of general publication pursuant to Section 12.27-D of the Municipal Code. Further, the Zoning Administrator's determination in this matter will become effective after May 7, 1990, unless an appeal therefrom is filed with the Board of Zoning Appeals. Any appeal must be filed on the prescribed forms, accompanied by the required fee and received and receipted at a Public Office of the Department of City Planning on or before the above date or the appeal will not be accepted.



DARRYL L. FISHER  
Associate Zoning Administrator

DLF:imc

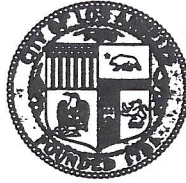


FRANKLIN P. EBERHARD  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JAMES J. CRISP  
DARRYL L. FISHER  
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CITY OF LOS ANGELES  
CALIFORNIA



TOM BRADLEY  
MAYOR

DEPARTMENT OF  
CITY PLANNING  
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OFFICE OF  
ZONING ADMINISTRATION

ROOM 600, CITY HALL  
LOS ANGELES, CA 90012-4801  
(213) 485-3851

April 20, 1990

Warren O'Brien, General Manager  
Department of Building and Safety  
Room 411, City Hall  
STOP 115

Re: CASE NO. ZA 90-0080(7A1)  
INTERPRETATION OF SECTION 12.03  
ACCESSORY LIVING QUARTERS  
AND KITCHEN FACILITIES

James K. Hahn, City Attorney  
Office of the City Attorney  
Room 1800, City Hall East  
STOP 140

Richard Sanchez, Chief Inspector  
Department of Building and Safety  
500 Shatto Place, #520  
STOP 115

Both the Department of Building and Safety and the Office of the City Attorney have requested an interpretation of the definition of "accessory living quarters" and "kitchen" as defined in Section 12.03 of the Los Angeles Municipal Code (Code). That section defines these terms as follows:

Accessory Living Quarters - An accessory building used solely as the temporary dwelling of guests of the occupants of the premises; such dwelling having no kitchen facilities and not rented or otherwise used as a separate dwelling unit. (Added by Ord. No. 107,884, Eff. 9/23/56)

Kitchen - Any room or any portion of a dwelling unit, whether an enclosing subdivision thereof or otherwise, used or intended or designed to be used for cooking and preparing food, except a light housekeeping room or that portion of a recreation room in a multiple residential use, or in an accessory building appurtenant thereto, containing facilities for the cooking and preparation of food. (Amended by Ord. No. 140,191, Operative 10/21/70)

It is specifically requested that the interpretation answer the following question: What measure of time the Department of Building and Safety should apply as is used within and as part of the definition of "Accessory Living Quarters" where the term "temporary" is used, and what the term "facilities" includes as is used within and as part of the definition of "Kitchen" where the term "Kitchen facilities" is used.

This interpretation will deal first with the intent of the Code as it relates to accessory living quarters, then deal with the more complex issue of kitchen facilities as it relates to accessory living quarters.

It is clearly the intent of the Code that accessory living quarters (quarters) are permitted in order to provide lodging for occasional visitors or guests in separate quarters from the primary residential dwelling on the property. Said quarters serve as a guest bedroom and bath which either may not be available in the main house or is intended to reduce the inconvenience and loss of privacy created by visitors in one's home. Over the years these quarters have tended to grow, often containing not only a bedroom and bath but living rooms, recreation rooms and perhaps more than one bedroom, taking on the appearance of another dwelling unit except they lacked kitchen facilities.

As housing prices have increased and the supply of affordable housing has decreased, there seems to be continuing pressure to create rental units out of accessory living quarters resulting in continuous occupancies rather than occasional visits. The City Council has addressed this need by adopting ordinances which permit "granny flats" and second dwelling units on a lot through the conditional use process. There are three Code prescribed legal deterrents which are incorporated within the definition itself. First, it specifically provides that such facilities may not be rented, extremely difficult to enforce. Second, an accessory living quarters is to be used solely as the "temporary" dwelling of guests, however, the term "temporary" has never been precisely defined, making this provision difficult to enforce. It would appear appropriate to define "temporary" as a period of less than the standard 30 day month normally used as a rental period but still long enough to adequately serve as a guest stop by vacationing family or friends. Lastly, the Code prohibits "kitchen facilities" which used to be easy to enforce by prohibiting a stove and oven. However, as technological advancements continue to expand the variety of "cooking" devices, using a stove or oven as the singular criteria appears outdated. Such cooking devices as microwave ovens, toaster ovens, hot plates, electric frying pans, woks, donut makers, waffle irons, etc., are all items which only require a 110 AC electrical outlet to cook food. It has proven to no longer be practical to attempt to use cooking devices exclusively as the "kitchen facilities" identified to determine if a kitchen exists.

Therefore, in light of the aforementioned issues, it is hereby determined that the word "temporary" as it applies to the "temporary dwelling of guests of the occupant" shall mean a maximum of 28 days unless the guests are family members using the quarters as an extension of the house. Further, that a minimum of 14 days shall pass between visits by the same individuals, thereby avoiding long term visits by a visitor who might be tempted to leave for a day and then stay for another 28 days and so on. Said interpretation of "temporary" permits an objective evaluation on the part of City staff, lessening the potential for abuse on the part of the public as well as inconsistent interpretations by City staff.



It is further determined that "kitchen facilities" as it applies to "such dwelling having no kitchen facilities" shall mean any portion of an accessory living quarters arranged for or conducive to the preparation or cooking of food, as evidenced by the inclusion of one or more of the following:

- A. Natural gas outlet (except in separate room which excludes C-1 below)
- B. 220 AC electrical outlet (except in separate room which excludes C-1 below)
- C. Double sink
- D. Bar sink exceeding one square foot
- E. Hot water line to bar sink.
- F. Refrigerator exceeding 10 cubic feet or place designed for it.
- G. Garbage disposal
- H. Dishwasher or space designed for it.
- I. Any device designed for cooking or heating of food
- J. Total counter space exceeding 10 square feet

While this detail may appear extreme on the surface, any or all of the above are necessary or involved with food preparation, cooking and clean-up, and therefore should be included. Said interpretation permits an objective evaluation on the part of City staff, lessening the potential for abuse on the part of the public as well as inconsistent interpretations by City staff.

This interpretation or ruling is to be published in a daily newspaper of general circulation as a rule of general publication pursuant to Section 12.27-D of the Municipal Code. Further, the Zoning Administrator's determination in this matter will become effective after May 7, 1990, unless an appeal therefrom is filed with the Board of Zoning Appeals. Any appeal must be filed on the prescribed forms, accompanied by the required fee and received and receipted at a Public Office of the Department of City Planning on or before the above date or the appeal will not be accepted.



DARRYL L. FISHER  
Associate Zoning Administrator

DLF: lmc

CITY OF LOS ANGELES  
CALIFORNIA

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OFFICE OF  
ZONING ADMINISTRATION

ROOM 600, CITY HALL  
LOS ANGELES, CA 90012-4801  
(213) 485-3851

January 5, 1994

Re: CASE NO. ZA 90-1439(ZAI)  
(CLARIFIES FEBRUARY 15, 1991  
VERSION, 6TH PARAGRAPH)

*Under former ZAI 1270, the Chief Zoning Administrator issued a 1950 ruling which provided that (only) in "hillside" areas identified through the printing of the word "Hillside" on the street as depicted on the applicable district zoning map and determined to be significantly impacted by topographical features, no setback from the street would have to be observed by a structure.*

*It was recognized by the Chief Zoning Administrator that certain provisions of the Code respecting requirements for front and side yards (corner lots) and which were designed for the "normal type", fairly level lot, typical in the City, could not be equitably applied to many lots located in hillside or mountainous areas. Unfortunately, total abandonment of standards resulted and many cases occurred where construction up to the property line took place and brought about negative impacts.*

*The practice of allowing the construction of a detached accessory building (e.g., a garage) to be located at or near a property line emanated from the desire to allow for convenient access from the abutting street and to eliminate the hazard of steep driveways leading to such garage. In addition, grading was minimized, which was desirable. Over the years, the designation of streets as "hillside" gradually fell into disfavor, as garage doors were opening over the public way and vehicles crossed over the public way before driver visibility was possible. Further, obstruction of emergency vehicles resulted in disastrous calamities.*

*While the reason for the discontinuance of this policy originally was based upon concern over safety and liability, subsequently, the City experienced the environmental consciousness of the 1970's as well as being involved in litigation over hillside development and consequently, the practice of designating hillside streets fell into complete disuse. As such, in keeping with the City's current position on such matters, ZAI 1270 was repealed.*

*In recent years, special protective ordinances have been adopted, e.g., the Girard Tract Specific Plan Ordinance (No. 165,040) and the South of Mulholland Ordinance (No. 164,765), which obviate ZAI 1270 or excluded its application to properties within the regulated area and establish a minimum*



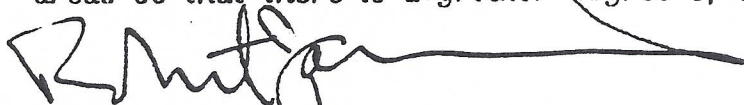
setback of typically 5 feet, although in certain cases, as great as 10 feet has been mandated. In those instances where an ICO, or other action by ordinance has established a minimum setback, (e.g., the Citywide hillside ordinance) those provisions shall of course apply. In all other instances, a minimum 5-foot setback shall apply citywide on "Hillside" stamped streets.

In the future, in individual situations, applications may still be made to this Office under authority of Section 12.27-C of the Code, accompanied by a filing fee equivalent to that for an approval of plans required in connection with a conditional use (other than 12.24-F and G), for review of the applicability of the City's yard and area requirements in cases in which setback reductions may be received on a specific individual basis devoted to ensure that the public interest is protected and promoted. Therefore, notwithstanding any provisions of the Municipal Code to the contrary, on a street stamped hillside on the respective district map, no structure shall be allowed by right any closer to the street property line than allowed under an ICO or other specific ordinance and where there is no such special ordinance, a minimum 5-foot setback shall be observed.

In order to allow for additional lead time before the effective date of this action, if plans capable of a complete plan check were accepted and deemed complete by the Department of Building and Safety by March 15, 1991, with no later modifications resulting in enlargement of the habitable areas of the project development consistent with the setbacks in ZAI 1270 are still deemed to exist on properties which have a "hillside" designation stamped on the respective district map.

Architects and others familiar with the zoning regulations know the differences between a hillside stamped street (the only situation involved here), an "H" hillside suffix within a zoning designation and other terms such as a mountainous or hillside areas for grading purposes. They would also be familiar with Section 12.22-C,6 of the Code which allows half the otherwise required front yard setback where a grade difference of 10 feet within the first 50 feet exists. Others however, not commonly accustomed to utilizing the Code may have been unaware of these other provisions and may have been assuming ZAI 1270 applied in all mountainous areas.

Accordingly, the changes made here from the prior January 10, 1991 version have resulted from the desire to allow Planning and Department of Building and Safety personnel and others to more comfortably adjust to revision of the standards and bring about compatibility between development proceeding where there are adopted interim regulations in existence as well as in other areas so that there is a greater degree of Citywide uniformity.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

cc: Department of Building and Safety  
Zoning Engineer and Plan Check Division  
Department of City Planning  
Code Studies Section  
Interested Individuals and Organizations

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: September 23, 1992

TO: Robert Janovici, Chief Zoning Administrator

FROM:  Robert Harder, Chief, Structural Plan Check

SUBJECT: ZA90-1439 (ZAI) (REPEAL OF ZAI 1270 - AS CLARIFIED)

Section 12.22C.20(e) of the Planning and Zoning Code permits open unenclosed porches, platforms or landing places (including access stairways thereto) to project six feet into required yards provided they are not more than six feet above natural grade.

The definition of a structure, as stated in Section 12.03, is "anything constructed or erected which is supported directly or indirectly on the earth, ..."

Porches, platforms or landing places and stairways are therefore structures and are permitted in front yards, including the 5' front yard as specified in the Girard Tract Ordinance.

In your ZAI 90-1439 (ZAI) clarification, dated February 15, 1991, page 2, paragraph 2, second sentence, states that ... "no structure shall be allowed by right any closer to the street property line than allowed under an ICO or other specific ordinance and where there is no such special ordinance, a minimum 5 feet setback shall be required."

Please clarify if the intent of this ZAI is to prohibit any structure in this setback or will porches, platforms, landing places up to 6' above nat. grade and 3' 6" high retaining walls or block walls be permitted?

RH:SI:FO:ss  
s#6a:za90-1439

cc: Hala Guirguis  
Frank Orbin

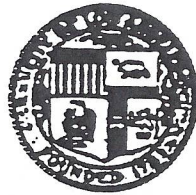


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OFFICE OF  
ZONING ADMINISTRATION

Room 600, City Hall  
Los Angeles, CA 90012-4800  
(213) 485-3851

February 15, 1991

Re: ZA 90-1439(ZAI) -  
(REPEAL OF ZAI 1270 - AS  
CLARIFIED)

Under former ZAI 1270, the Chief Zoning Administrator issued a 1950 ruling which provided that (only) in "hillside" areas identified through the printing of the word "Hillside" on the street as depicted on the applicable district zoning map and determined to be significantly impacted by topographical features, no setback from the street would have to be observed by a structure.

It was recognized by the Chief Zoning Administrator that certain provisions of the Code respecting requirements for front and side yards (corner lots) and which were designed for the "normal type", fairly level lot, typical in the City, could not be equitably applied to many lots located in hillside or mountainous areas. Unfortunately, total abandonment of standards resulted and many cases occurred where construction up to the property line took place and brought about negative impacts.

The practice of allowing the construction of a detached accessory building (e.g., a garage) to be located at or near a property line emanated from a desire to allow for convenient access from the abutting street and to eliminate the hazard of steep driveways leading to such garage. In addition, grading was minimized, which was desirable. Over the years, the designation of streets as "hillside" gradually fell into disfavor, as garage doors were opening over the public way and vehicles crossed over the public way before driver visibility was possible. Further, obstruction of emergency vehicles resulted in disastrous calamities.

While the reason for the discontinuance of this policy originally was based upon concern over safety and liability, subsequently, the City experienced the environmental consciousness of the 1970's as well as being involved in litigation over hillside development and consequently, the practice of designating hillside streets fell into complete disuse. As such, in keeping with the City's current position on such matters, ZAI 1270 was repealed.

In recent years, special protective ordinances have been adopted e.g., the Girard Tract Specific Plan Ordinance No. 165,040 and the South of Mulholland Ordinance No. 164,765, which obviate ZAI 1270 or excluded its application to properties within the regulated area and establish a minimum setback of typically 5 feet, although in certain cases, as great as 10 feet has been mandated. In those instances where an ICO, or other action by ordinance has established a minimum setback, (eg., the pending Citywide hillside



ordinance) those provisions shall of course apply. In all other instances, a minimum 5-foot setback shall apply citywide on "Hillside" stamped streets.

In the future, in individual situations, applications may still be made to this Office under authority of Section 12.27-C of the Code and filed as a plan approval action which allows for review of the applicability of the City's yard and area requirements in cases in which setback reductions may be received on a specific individual basis devoted to ensure that the public interest is protected and promoted. Therefore, notwithstanding any provisions of the Municipal Code to the contrary, on a street stamped hillside on the respective district map, no structure shall be allowed by right any closer to the street property line than allowed under an ICO or other specific ordinance and where there is no such special ordinance, a minimum 5-foot setback shall be observed.

In order to allow for additional lead time before the effective date of this action, if plans capable of a complete plan check were accepted and deemed complete by the Department of Building and Safety by March 15, 1991, with no later modifications resulting in enlargement of the habitable areas of the project development consistent with the setbacks in ZAI 1270 are still deemed to exist on properties which have a "hillside" designation stamped on the respective district map.

Architects and others familiar with the zoning regulations know the differences between a hillside stamped street (the only situation involved here), an "H" hillside suffix within a zoning designation and other terms such as a mountainous or hillside areas for grading purposes. They would also be familiar with Section 12.22-C,6 of the Code which allows half the otherwise required front yard setback where a grade difference of 10 feet within the first 50 feet exists. Others however, not commonly accustomed to utilizing the Code may have been unaware of these other provisions and may have been assuming ZAI 1270 applied in all mountainous areas.

Accordingly, the changes made here from the prior January 10, 1991 version have resulted from the desire to allow Planning and Department of Building and Safety personnel and others to more comfortably adjust to revision of the standards and bring about compatibility between development proceeding where there are adopted interim regulations in existence as well as in other areas so that there is a greater degree of Citywide uniformity.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

cc: Department of Building and Safety  
Zoning Engineer and Plan Check Division  
Department of City Planning  
Code Studies Section  
Interested Individuals and  
Organizations



CITY OF LOS ANGELES  
INTER-DEPARTMENTAL CORRESPONDENCE

RJ  
Tissue

January 28, 1993

TO: Robert Harder, Chief  
Structural Plan Checker

FROM: Robert Janovici  
Chief Zoning Administrator

SUBJECT: ZA 90-1439(ZAI)

*In a previous communication, you inquired as to whether my action in issuing the above-noted determination was meant to preclude any "structure" as defined in Section 12.03 of the Municipal Code from being within the 5-foot minimum setback created.*

*Answer. The intent of my action was to create a minimum setback where not otherwise established on property where the street is stamped "Hillside". This was to be done in a similar fashion to those provisions in the Municipal Code which establish setbacks in various respective zoning categories. Accordingly, those provisions of the Code which permit within required setbacks such structures as walls up to 3.5 feet or porches, landing places, platforms or other structures would be deemed to permit such structures in the setback required under my original action.*

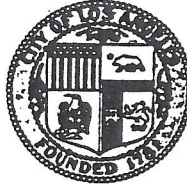
*I hope this answers your inquiry; please contact me if any further questions remain.*

RJ:lmc

FRANKLIN P. EBERHARD  
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OFFICE OF  
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Room 600, City Hall  
Los Angeles, CA 90012-4801  
(213) 485-3851

February 15, 1991

Re: ZA 90-1439(ZAI)  
(REPEAL OF ZAI 1270 - AS  
CLARIFIED)

Under former ZAI 1270, the Chief Zoning Administrator issued a 1950 ruling which provided that (only) in "hillside" areas identified through the printing of the word "Hillside" on the street as depicted on the applicable district zoning map and determined to be significantly impacted by topographical features, no setback from the street would have to be observed by a structure.

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The practice of allowing the construction of a detached accessory building (e.g., a garage) to be located at or near a property line emanated from a desire to allow for convenient access from the abutting street and to eliminate the hazard of steep driveways leading to such garage. In addition, grading was minimized, which was desirable. Over the years, the designation of streets as "hillside" gradually fell into disfavor, as garage doors were opening over the public way and vehicles crossed over the public way before driver visibility was possible. Further, obstruction of emergency vehicles resulted in disastrous calamities.

While the reason for the discontinuance of this policy originally was based upon concern over safety and liability, subsequently, the City experienced the environmental consciousness of the 1970's as well as being involved in litigation over hillside development and consequently, the practice of designating hillside streets fell into complete disuse. As such, in keeping with the City's current position on such matters, ZAI 1270 was repealed.

In recent years, special protective ordinances have been adopted e.g., the Girard Tract Specific Plan Ordinance No. 165,040 and the South of Mulholland Ordinance No. 164,765, which obviate ZAI 1270 or excluded its application to properties within the regulated area and establish a minimum setback of typically 5 feet, although in certain cases, as great as 10 feet has been mandated. In those instances where an ICO, or other action by ordinance has established a minimum setback, (eg., the pending Citywide hillside



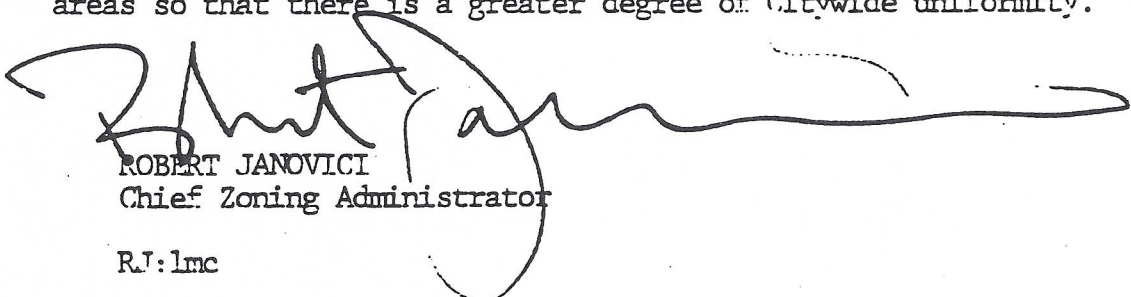
ordinance) those provisions shall of course apply. In all other instances, a minimum 5-foot setback shall apply citywide on "Hillside" stamped streets.

In the future, in individual situations, applications may still be made to this Office under authority of Section 12.27-C of the Code and filed as a plan approval action which allows for review of the applicability of the City's yard and area requirements in cases in which setback reductions may be received on a specific individual basis devoted to ensure that the public interest is protected and promoted. Therefore, notwithstanding any provisions of the Municipal Code to the contrary, on a street stamped hillside on the respective district map, no structure shall be allowed by right any closer to the street property line than allowed under an ICO or other specific ordinance and where there is no such special ordinance, a minimum 5-foot setback shall be observed.

In order to allow for additional lead time before the effective date of this action, if plans capable of a complete plan check were accepted and deemed complete by the Department of Building and Safety by March 15, 1991, with no later modifications resulting in enlargement of the habitable areas of the project development consistent with the setbacks in ZAI 1270 are still deemed to exist on properties which have a "hillside" designation stamped on the respective district map.

Architects and others familiar with the zoning regulations know the differences between a hillside stamped street (the only situation involved here), an "H" hillside suffix within a zoning designation and other terms such as a mountainous or hillside areas for grading purposes. They would also be familiar with Section 12.22-C,6 of the Code which allows half the otherwise required front yard setback where a grade difference of 10 feet within the first 50 feet exists. Others however, not commonly accustomed to utilizing the Code may have been unaware of these other provisions and may have been assuming ZAI 1270 applied in all mountainous areas.

Accordingly, the changes made here from the prior January 10, 1991 version have resulted from the desire to allow Planning and Department of Building and Safety personnel and others to more comfortably adjust to revision of the standards and bring about compatibility between development proceeding where there are adopted interim regulations in existence as well as in other areas so that there is a greater degree of Citywide uniformity.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

cc: Department of Building and Safety  
Zoning Engineer and Plan Check Division  
Department of City Planning  
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Interested Individuals and  
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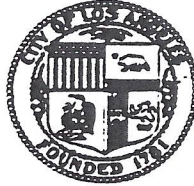
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# CITY OF LOS ANGELES

CALIFORNIA



TOM BRADLEY  
MAYOR

DEPARTMENT OF  
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KENNETH C. TOPPING  
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KEI UYEDA  
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OFFICE OF  
ZONING ADMINISTRATOR

ROOM 600, CITY HALL  
LOS ANGELES, CA 90012-4801  
(213) 485-3851

January 10, 1991

Re: ZA 90-1439(ZAI)  
REPEAL OF ZAI 1270

Once upon a time, the Chief Zoning Administrator issued ZAI 1270, which provided that in "hillside" areas established by the Office of Zoning Administration and determined to be significantly impacted by topographical features, no side yard setback along the side street lot line of a corner lot or front yard setback would have to be observed by a structure.

Also, as part of that action, it was determined that the prohibition against detached accessory structures being within 55 feet of the front of a lot likewise did not apply. It was recognized by the Chief Zoning Administrator that certain provisions of the area requirements concerning front and side yards and location of accessory buildings and which were designed for the "normal type", fairly level lot, typical in the City could not be equitably applied to many lots located in hillside or mountainous areas.

The practice of allowing the construction of a detached accessory building (e.g., a garage) to be located at or near a property line emanated from a desire to allow for convenient access from the abutting street and to eliminate the hazard of steep driveways leading to such garage. Over the years, the designation of streets as "hillside" gradually fell into disfavor, as garage doors were opening over the public way and vehicles were over the public way before visibility was possible and it has probably been at least 15 years since such a designation was applied to any street in the City.

While the reason for the discontinuance of this policy originally was based upon concern over safety and liability, subsequently, the City experienced the environmental consciousness of the 1970's as well as being involved in litigation over hillside development and consequently, the practice fell into complete disuse. In recent years, special protective ordinances have been adopted e.g., the Girard Tract Specific Plan Ordinance No. 165,040 and the South of Mulholland Ordinance No. 164,765, which either obviate ZAI 1270 or exclude its application to properties within the regulated area. As such in keeping with the City's current position on such matters, ZAI 1270 is repealed.



In the future, in individual situations, applications may still be made to this Office under appropriate procedures seeking setback reductions and under which specific attention may be devoted to ensure that the public interest is protected and promoted. It should be noted however, that for existing structures built under ZAI 1270, no further intensification of the nonconformity may take place by right - eg., under the provisions of Section 12.22 or 12.23 of the Code, as the underlying basis upon which such nonconforming situation was created has ceased. Therefore, such Code provisions as relate to projecting structures or additions to nonconforming yards are no longer automatically available and specific discretionary review shall be required in those cases as well.

As it is only fair to allow some lead time before the effective date of this action, a grace period is being granted and therefore, if plans capable of a complete plan check were accepted and deemed complete by the Department of Building and Safety by February 15, 1991, with no corrections of any type subsequently necessary, the entitlements respecting setbacks in ZAI 1270 are still deemed to exist.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

cc: Department of Building and Safety  
Zoning Engineer and Plan Check Division  
Department of City Planning  
Code Studies Section

CITY OF LOS ANGELES  
CALIFORNIA



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MAYOR

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DEPARTMENT OF  
CITY PLANNING  
MELANIE S. FALLON  
DIRECTOR

FRANKLIN P. EBERHARD  
CHIEF DEPUTY DIRECTOR

OFFICE OF  
ZONING ADMINISTRATION

ROOM 600, CITY HALL  
LOS ANGELES, CA 90012-4801  
(213) 485-3851

October 3, 1991

The Honorable Hal Bernson  
Councilman, Twelfth District  
Room 237, City Hall  
Los Angeles, CA 90012

Re: CASE NO. ZA 87-1100(1)  
CLARIFICATION

I am in receipt of your written request for clarification of the above noted determination previously written by the former Chief Zoning Administrator, Franklin Eberhard, in which he determined that the open air sales of pumpkins may be permitted by right, subject to certain operating conditions.

I understand that an issue has arisen over whether the "use of a single mobile trailer for a sales office and the use of a single commercial box trailer for storage of products", would be permitted in conjunction with the sale of pumpkins and, Christmas trees for that matter.

Response

The answer to the above questions in both cases is affirmative.

Section 12.21-A,2 of the Los Angeles Municipal Code authorizes the Zoning Administrator to determine the proper zone in which uses otherwise undesignated, may be permitted. Under this authority, Mr. Eberhard determined that pumpkin sales during a certain period of the month of October would be permitted. Mr. Eberhard's decision was predicated upon a review of the custom/practice of the sale of pumpkins in conjunction with the enjoyment of the Halloween activities.

It is a basic precept of the Municipal Code that besides a main use, those activities normally customarily incidental are also by inference, likewise permitted. In this case, a storage facility as well as sales facility, both as described and restricted, supra, during the colder weather season are reasonable, customary and permitted.

ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

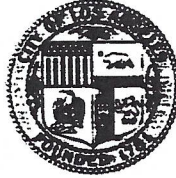


FRANKLIN P. EBERHARD  
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CITY OF LOS ANGELES  
CALIFORNIA



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Room 600, City Hall  
Los Angeles, CA 90012-4856  
(213) 485-3851

September 18, 1987

WILLIAM F. JONES  
903 Walker Avenue  
San Pedro, CA 90731

Department of Building and Safety

Re: CASE NO. ZA 87-1100(I)  
DETERMINATION OF OTHER USE -  
SALE OF PUMPKINS PRIOR TO  
HALLOWEEN PERMISSIBLE UNDER  
LOS ANGELES MUNICIPAL CODE  
SECTION 12.22-A,<sup>4</sup> (SALE OF  
CHRISTMAS TREES)

Mr. William F. Jones was referred to the Office of Zoning Administration by the Department of Building and Safety, because a charitable organization with which he is associated desires to sell pumpkins at Halloween for fund-raising purposes, on a vacant lot located in the C2 Zone. There exists no ready mechanism to accommodate this use. The C2 Zone permits the sale of groceries, fruits or vegetables, but within a completely enclosed building. Los Angeles Municipal Code Section 12.24-C;1.1(c) permits the open air sale of merchandise from a privately owned vacant lot in the C2 and other zones. However, either a conditional use or variance process would be prohibitively time consuming and costly for such a temporary and charitable use.

The sale of Christmas trees is permitted under Los Angeles Municipal Code Section 12.22-A,<sup>4</sup> under prescribed conditions:

4. Sale of Christmas Trees. Notwithstanding any provisions of this Article to the contrary, the annual retail sale, including sales by philanthropic, political, patriotic and charitable associations of Christmas trees and ornaments shall be permitted in all zones, except the RE, RS, R1, RU and RZ Zones between December 1 and 25, inclusive, and the necessary permits and licenses may be issued provided that:

(a) Any lights used to illuminate the site shall be arranged to reflect the light away from any adjacent residentially zoned property except that this restriction does not apply to frosted light bulbs of 100 watts or less; and

(b) There shall be no use of any sound equipment in any residential zone in conjunction with the retail sale of Christmas trees; and

(c) The operator of such a sale of Christmas trees shall post a \$200 clean-up deposit with the Office of the City Clerk prior to any lot preparation or sales; and

(d) The operator of such a sale of Christmas trees shall comply with all other applicable provisions of the Los Angeles Municipal Code.

This subsection was added to the Municipal Code in 1978 in recognition that the pre-existing zone provisions did not readily accommodate such short-term, charitable/nonprofit land uses in a manner which was realistically expeditious and economic. The large number of Christmas tree lots which are temporarily established each year could not practically nor equitably be processed under conventional discretionary processes.

The characteristics of the sale of Christmas trees apply equally well to the sale of pumpkins at Halloween. Both involve the sale of dimensionally large items, produced by nature, for decorative uses only (during the relevant seasons), tied to a specific event, and salable for a very limited span of time.

Under Los Angeles Municipal Code Section 12.21-A,2, the Chief Zoning Administrator "shall have authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment such other uses are similar to and no more objectionable to the public welfare than those listed." Under this authority, it is hereby determined that the sale of pumpkins at Halloween may be permitted under Los Angeles Municipal Code Section 12.22-A,4, subject to the provisions of that subsection, except that:

such sales shall be permitted only between October 15 and 31, inclusive.

In consideration of the relatively perishable nature of pumpkins and the very short term of their use, the above time span should be sufficient.

This matter is to be published in a paper pursuant to the provisions of Section 12.27-D of the Municipal Code concerning rules of general interpretation. As such the matter is appealable to the Board of Zoning Appeals. The Zoning Administrator's determination in this matter will become effective after October 5, 1987, unless an appeal therefrom is filed with the Board of Zoning Appeals. Any appeal must be filed on the prescribed forms, accompanied by the required fee and received and receipted at a Public Office of the Department of City Planning on or before the above date or the appeal will not be accepted.

  
FRANKLIN P. EBERHARD  
Chief Zoning Administrator

FPE:lmc

cc: Honorable Board of City Planning Commissioners  
Honorable Board of Zoning Appeals  
Honorable Board of Building and Safety Commissioners  
Director of Planning  
Associate Zoning Administrators



# CITY OF LOS ANGELES

CALIFORNIA



TOM BRADLEY  
MAYOR

DEPARTMENT OF  
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ANDREW B. SINCOSKY

HORACE E. TRAMEL, JR.

November 23, 1992

Re: CASE NO. ZA 91-0845(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - MEASUREMENT  
OF HEIGHT - AS CLARIFIED  
(SUPERCEDES ZAI 86-1089(ZAI)  
CITYWIDE)

On October 9, 1986, ZA 86-1089(ZAI) was issued which interpreted the intended use of the word "Grade" as defined in Section 12.03 of the Municipal Code as "The lowest point of elevation of the finished surface of the ground, paving or sidewalk, excluding a driveway(s) or stairwell(s) within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building."

The Chief Zoning Administrator at that time, concluded that the applicable Code provisions for the definition of height did not require the measurement of height from the bottom of a stairwell or driveway when the bottom of such stairwell or driveway is below the lowest point of elevation of the finished surface or the ground, paving, or sidewalk as specified in the definition of grade contained in Section 12.03 of the LAMC.

This 1986 interpretation has been subsequently utilized until a series of ongoing questions relating to building height measurements arose. In one situation, a proposed project raised a question about possible intentional efforts to circumvent the intent of the zoning regulations and to create a higher than permitted building by designing a stair entranceway into a building below grade which would not count as the reference point to measure the building height under the prior interpretation. Under ZA 86-1089(ZAI), the proposed project example would be measured at the existing or finished grade, whichever was the lower, and this method could result in a higher building. The Chief Zoning Administrator who issued the 1986 ZAI has indicated that it was never anticipated that someone would intentionally design a project with the entry stairs to the project below ground level to create an over-in-height building.

In the 1986 ZAI, the intent was to exempt secondary, minor stairways which perhaps lead to a basement or underground parking (and not the main entry stairs) that were typically located on the side of the building. The intent was clearly not to allow the front yard, or below grade main entrance steps, or stairwells to be exempted from determining the reference point for measuring height. Clearly, there is a difference in the purpose and importance of a stairwell used as a main entryway access on the one hand, and stairs used as accessory access to an underground garage on the other.

In order to eliminate the ability to increase permitted height by the use of below grade entryway steps which do not count for the height calculation, further clarification of the use of stairs and stairways for determining permitted height is now necessary.

Therefore, the 1986 ZAI (ZA 86-1089(ZAI)) is hereby superceded and a new functional interpretation of building height measurement for Section 12.03 of the Code is hereby issued.

"Grade" will now be considered as "The lowest point of elevation of the finished surface of the ground, paving or sidewalk, excluding a driveway(s) or secondary access stairwell(s) within the area between the building and the property line, or between the building and a line 5 feet from the building. Accordingly, the lowest point of a stairwell facing the front yard or stairs used for primary access, even if the stairs are below grade level, will be the reference point to measure grade."

This interpretation does not apply to any building or structure located within the boundaries of Specific Plans which specifically treat height measurement nor areas regulated by Ordinance No. 168,159 (Hillside Regulations).

#### EFFECTIVE DATE

On December 19, 1991, a substantially similar action to this instant document was issued under the same case number, but for which the technical notice was irregular and lead time of short duration, and as such, the 1991 action did not become operative. In further considering the matter in recent months and allowing for timely and equitable implementation and incorporation into architectural plans being currently underway, a transition time before this document is deemed in place and applicable is appropriate. Therefore, this action does not apply to any project for which architectural and structural plans sufficient for a complete plan check have been accepted by the Department of Building and Safety on or before May 4, 1993; a complete plan check fee has been paid on or before May 4, 1993; and no subsequent changes are made to those plans which increase the building height or lot coverage or reduce the front or side yards, provided further that substantial construction activities must be initiated by May 4, 1994.

Pursuant to Section 12.27-D of the Los Angeles Municipal Code, this interpretation shall be transmitted to the City Clerk for publication at



least once in a daily newspaper of general circulation in the City of Los Angeles designated for that purpose.

*Andrew B. Sincosky*

ANDREW B. SINCOSKY  
Associate Zoning Administrator for

ROBERT JANOVICI  
Chief Zoning Administrator

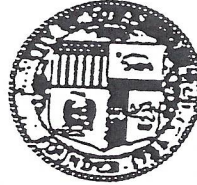
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TOM BRADLEY  
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December 19, 1991

Department of Building and Safety

RE: CASE NO. ZA 91-0845 (ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - MEASUREMENT  
OF HEIGHT  
REPEALS: ZAI 86-1089 (ZAI)  
APPLICABILITY: CITYWIDE

On October 9, 1986, ZA 86-1089 (ZAI) was issued which interpreted the term "Grade" as defined in the Los Angeles Municipal Code as "The lowest point of elevation of the finished surface of the ground, paving or sidewalk, excluding a driveway(s) or stairwell(s) within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building...." The Chief Zoning Administrator at that time, concluded that the applicable Municipal Code provisions for the definition of height did not require the measurement of height from the bottom of a stairwell or driveway when the bottom of such stairwell or driveway is below the lowest point of elevation of the finished surface or the ground, paving, or sidewalk as set forth in the definition of grade as contained in section 12.03 of the Municipal Code.

This 1986 interpretation has been subsequently utilized until a recent question relating to building height measurements arose. A recent proposed project raised a question about possible intentional efforts to circumvent the intent of the zoning regulations and to create a higher than permitted building by designing a stair entranceway into a building below grade which would not count as the reference point to measure the building height under the prior interpretation. Under the 1986 ZAI, the proposed project example would be measured at the existing or finished grade, whichever was the lower, and this method could result in a higher building. The Chief Zoning Administrator who issued the 1986 ZAI has indicated that it was never anticipated that someone would intentionally design a project with the entry stairs to the project below ground level to create an over-in-height building.

In order to eliminate the ability to increase permitted height by the use of below grade entryway steps which do not count for the height calculation, further clarification of the use of stairs and stairways for determining permitted height is now necessary.

In the 1986 ZAI, the intent was to exempt secondary minor stairways which perhaps lead to a basement or underground parking (and not the main entry stairs) that were typically located on the side of the building. The intent was not to allow the front yard, or below grade main entrance steps or stairwells to be exempted from determining the reference point for measuring height. Clearly, there is a difference in the purpose and importance of a stairwell used as a main entryway access and stairs used as accessory access to an underground garage.

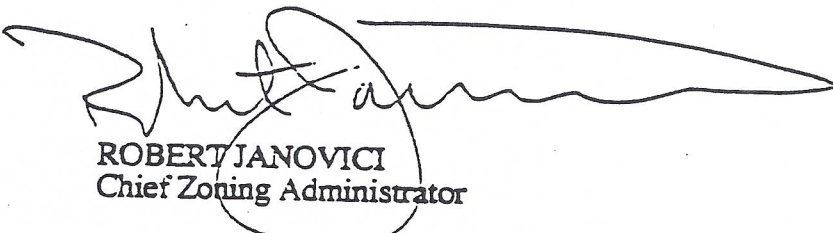


Therefore, the 1986 Zoning Administrator's Interpretation (ZA 86-1089 (ZAI) is repealed and a new interpretation of building height measurement for Section 12.03 of the Los Angeles Municipal Code is hereby issued.

"Grade" is now interpreted as "The lowest point of elevation of the finished surface of the ground, paving or sidewalk, excluding a driveway(s) or secondary access stairwell(s) within the area between the building and the property line, or between the building and a line five feet from the building. The lowest point of a stairwell facing the front yard or stairs used for primary access, even if the stairs are below grade level, will be the reference point to measure grade."

This interpretation does not apply to any building or structure located within the boundaries of the Century City North or Century City South Specific Plans which are subject to section 12.21.2 of this code.

Pursuant to Section 12.27-D of the Los Angeles Municipal Code, this interpretation shall be transmitted to the City Clerk for publication at least once in a daily newspaper of general circulation in the City of Los Angeles designated for that purpose.

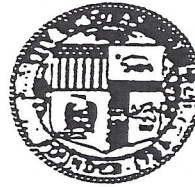


ROBERT JANOVICI  
Chief Zoning Administrator

RJ:wp 2.0.1  
doc: ZA 91-0845 ZAI

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City Clerk for newspaper publication

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CALIFORNIA



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December 19, 1991

Department of Building and Safety

RE: CASE NO. ZA 91-0845 (ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - MEASUREMENT  
OF HEIGHT  
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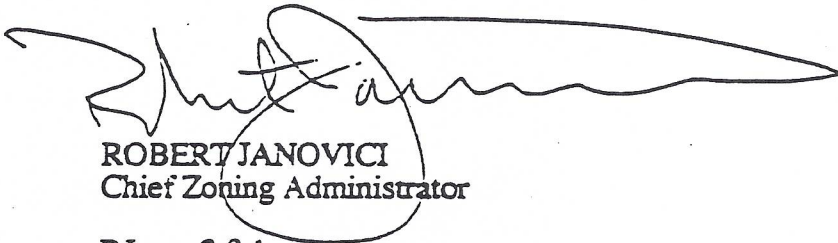


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Pursuant to Section 12.27-D of the Los Angeles Municipal Code, this interpretation shall be transmitted to the City Clerk for publication at least once in a daily newspaper of general circulation in the City of Los Angeles designated for that purpose.



ROBERT JANOVICI  
Chief Zoning Administrator

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doc: ZA 91-0845 ZAI

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April 24, 1992

Honorable Zev Yaroslavsky  
Councilman, Fifth District  
200 North Spring Street, #318  
Los Angeles, CA 90012

Re: CASE NO. ZA 92-0448(ZA1)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - PERMISSIBLE  
OCCUPANCY/ASSEMBLY AREAS IN  
HOTELS

Your recent letter of March 17, 1992 raises several issues relative to use of "public areas" in hotels and whether these areas may be utilized simultaneously with normal "assembly areas" of a hotel (e.g., banquet rooms, meeting rooms, restaurants, ballrooms, etc.), as an adjunct of such facilities. The areas which are the subject of this inquiry include:

lounges  
entry ways  
hallways  
foyers  
lobbies

In essence, your questions focus on whether areas not normally typically utilized for meetings, banquets, public assembly, etc., can be so used contemporaneously/ simultaneously with and as the functional equivalent of those meeting, banquet and assembly areas in the same manner and fashion. The answer is clearly no!

You have correctly noted that when the City, pursuant to a discretionary action, establishes occupancy levels for meeting rooms, banquet rooms or ballrooms, included by inference, custom and practice in such limitations is the prohibition of like use of the lobby or those other accessory public areas. For example, a hallway cannot also be used as a meeting room or banquet room. This is irrespective of whether the public areas, under the City's general regulations (e.g., Fire or Building Code) have an occupancy factor. This is not only the custom and practice of the City of Los Angeles, but also consistent with legal construction principles as well, for when there are two standards potentially applicable to a set of circumstances, the most specific is held to govern unless otherwise specifically provided.

By analogy, the normal operating function of a hotel is such that lobbies, foyers, etc., have a use distinct from ballrooms, meeting rooms and other areas where a large throng of persons assemble. An accessory use is one



that is customarily incidental to that of the main building or use of the land. The normal use of a prefunction or lobby area would be as an antecedent to the use of the ballroom, assembly room, etc., but not as the ballroom, assembly room in and of itself.

Accordingly, a hotel may not utilize its entire public area for public assembly in order to circumvent occupancy limits.

I trust this is responsive to your requests.



ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

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CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

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March 25, 1993

Hector Buitrago, Zoning Engineer Re:  
Department of Building and Safety  
Room 460-B, City Hall  
STOP 115

CASE NO. ZA 93-0231(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - PARKING  
REQUIREMENTS FOR:  
ACUPUNCTURE/ACUPRESSURE  
CLINIC, CHIROPRACTOR,  
DENTIST, PHYSICAL THERAPIST,  
PSYCHIATRIST, PSYCHOLOGIST,  
ETC.

In response to the appeal request of members of your staff with regard to the proper application of the City's parking requirements to uses including those above, I concur with the long standing position of your Department and find that the continued application of Section 12.21-A,4(d)(3) of the Municipal Code to such uses is appropriate.

From documents made available by your staff, I understand that an issue has arisen as to the import of changes in State codes in the determination of the appropriate parking requirements for the uses noted, above. Specifically, the question posed is whether these uses are "clinics" and therefore, to be treated as such with regard to required parking (only). I believe that reorganization of State regulations as part of a licensing and consumer protection scheme should not be deemed determinative of the proper application of the zoning regulations in this instance, as the reference in the Zoning Code to provisions in the California Health and Safety Code regarding clinics were meant to be descriptive as contrasted to regulatory.

Further, the application of other provisions in the Code to the uses under consideration separately results in the application of the same regulations irrespective of whether considered to be part of or within a "clinic". (see *infra*)

Application of Clinic Standard

Prior to 1978, the definition of clinic contained in Section 1202 of the California Health and Safety Code referred to "... any place, establishment or institution which operates under the name or title of clinic or any other word or phrase of like or similar import ... for the purpose of furnishing at the place, advice, diagnosis, treatment, appliances or apparatus to persons



not residing or confined in the place ... and who are afflicted with bodily or mental disease or injury."

Subsequently, the term clinic was revised and relocated in Section 1200 of the California Health and Safety Code to provide:

..."an organized out-patient health facility which provides direct medical, surgical, dental, optometric or podiatric advice, service or treatment of patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home ..."

Then in 1980, Section 1200.1 was added to allow psychological practitioners' offices to be considered the same as clinics.

Section 12.21-A,4(d)(3) of the Municipal Code provides that for "clinics" a parking rate of one space per 200 square feet of gross floor area is appropriate and it has been the customary practice of the Department of Building and Safety when determining the appropriate amount of parking to apply the "clinic" standard to acupuncture/acupressure clinic, chiropractor, physical therapist, psychiatrist, psychologist, etc. Between the original adoption of the ordinance and the present, the provisions of the California Health and Safety Code changed.

In reviewing the various historical City records and including discussions with members of our staff and those of the Department of Building and Safety, the application of Section 12.21-A,4(d)(3) to all the uses noted above is logical, reasonable and consistent with the Council's intent and, even common sense.

To begin with, it must be recognized that the various cited provisions in the California Health and Safety Code were/are meant to provide for licensing and quality control measures in order to ensure the safe and efficient delivery of personal services having to do with physical and mental health of human beings. Further, not all the activities which are currently regulated by Section 1200 are in themselves "medical" in the sense of involving treatment by a "medical doctor", regardless of whether persons practicing such professions are commonly referred to as a "doctor" as a matter of "title".

The purpose of the zoning regulations is to bring about compatibility between respective uses and mitigate land use impacts. The application of the zoning regulations should not depend on reorganization of State codes for reasons having absolutely no connection to the land use impacts but which are designed to bring about delivery of quality services subject to State licensure.

The original 1953 definition referred to persons who are "... affected with bodily or mental disease or injury." What the various uses considered here all involve is treatment of human maladies - whether mental or physical. In most cases, this is by appointment by a trained professional, sometimes a medical doctor, but in any event, a person trained in the sciences to mitigate or eliminate those ailments.



Additional Independent Authority For Applying Section 12.21-A, 4(d)(3)

As noted, *supra*, a separate independent basis upon which to determine the appropriate parking requirements exists and which will result in the same standard as if the uses were viewed as a clinic in any event. Section 12.21-D, 3 of the Municipal Code also provides along with parking regulations for a clinic, parking regulations for:

"... medical office buildings and other medical service facilities ..."

which also is at the rate of one parking space/200 square feet of total floor area.

In order to determine the Council's legislative intent when adopting these increased parking requirements for medical related uses, I have studied included with a report dated May 24, 1973 by the erudite Ron Lewis of the City Planning Department to the City Planning Commission, a final ordinance was proposed and on Page 5 of the report, Mr. Lewis discusses field observations resulting from viewing hospitals, medical offices and other medical service uses. He notes that a "... significant congestion problem was noted during field investigations ... one which centered on clinics, medical office buildings and other medical service facilities."

Also within the file is a May 30, 1972 letter to Calvin Hamilton, Director of Planning under Case Number CPC 24233, CF 72-1145 & S, titled "Appendix C-1", from the then Department of Traffic. On Pages 2 and 3 of that letter, discussion is made of mixes of medical and non-medical uses in office buildings and it is stated "... Since medical facilities involve high volumes of patients and parking periods of approximately one or more hours, the ratio of four spaces per 1,000 square feet of medical office building is suggested."

It is clear that services/professions engaged in the healing of human beings were meant to be regulated by the Council in the same manner as those facilities in which persons with an "M.D." behind their name. Therefore, the following uses sharing common features with medical uses shall continue to be treated as such when applying the City's parking regulations:

Acupressurist  
Acupuncturist  
Chiropractor  
Dentist  
Physical Therapist  
Podiatrist  
Psychoanalyst  
Psychologist

Section 12.21-A, 2 of the Los Angeles Municipal Code provides in pertinent part:

"2. Other Uses Determined by Administrator. The Administrator shall have authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his judgment such other uses are similar to and no more objectionable to the public welfare than those listed. ..."



*This authority also permits determinations concerning the proper application of the zoning regulations as well. Further, pursuant to Section 98 of the City Charter, the Zoning Administrator has authority to consider appeals from Department of Building and Safety actions.*

*This interpretation shall be published pursuant to Section 12.27-D of the Los Angeles Municipal Code..*

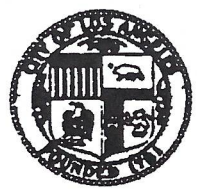


ROBERT JANOVICI  
Chief Zoning Administrator

RJ:lmc

# CITY OF LOS ANGELES

CALIFORNIA



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MAYOR

FRANKLIN P. EDEPHARD  
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June 30, 1988      COR / MINI-MALL

Department of Building and Safety      Re: CASE NO. ZA 88-0590(R)(ZAI)  
INTERPRETATION OF ORDINANCE NO.  
160,867 (Commercial Corner  
Review)

Ordinance No. 160,867 became effective as per its urgency clause on February 27, 1986. The ordinance provides that certain operational and development standards apply where a new commercial or multiple residential use is proposed on a "C" zoned corner lot whose lot line adjoins, or is separated only by an alley, (or is located across the street) from any portion of a lot improved with a single-family residential use.

The law further provides that in the event such use or change of use involves: 1) a drive-through fast food establishment; or 2) a business which operates between the hours of 11 p.m. and 7 a.m.; or 3) a multiple-residential use; or 4) an amusement enterprise; or 5) a car wash, the matter must be individually reviewed and acted upon by a Zoning Administrator under a discretionary process.

Recently, discussions between the Associate Zoning Administrators and myself have concerned an interpretation as to the applicability of the ordinance to sites which may not be wholly in a commercial zoning category, but on which commercial activity takes place, and whether such sites were likewise intended to be covered by the ordinance. An example of this might be where a site has dual zoning, eg., C and P or C and R, but yet is developed and functions as a whole as a commercial site. This situation could arise, for example, when: 1) under transitional parking rights (since deleted from the Code) public parking was previously permitted by right on residentially zoned property; 2) or where pursuant to a conditional use permit, public parking is authorized; 3) or where a P Zone exists on a portion of a site which permits parking by right. Other situations where this could arise would include the instance where a variance was granted to allow use of a site in a commercial manner even though in a zone which did not permit same by right.

It has long been the practice of this Office that regardless of zones and lot lines which may exist on property, if a site is developed in such a way as to be functionally integrated, it is looked upon as one development site. Additionally, where actual zone designations are transcended by use, the development characteristics of the property are considered as a whole.



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December 13, 1988

Honorable City Council  
200 North Spring Street  
Room 395, City Hall  
Los Angeles, CA 90012

Re: CASE NO. ZA 88-1405(R)  
CF NO. 88-1845, CPC 88-0720-CA)  
INTERPRETATION AND CLARIFICATION  
OF MUNICIPAL CODE OFF-STREET  
PARKING REQUIREMENTS FOR  
ASSEMBLY (Hotels, Motels,  
Churches and Bingo Parlors  
C.D. All

Department of Building and Safety

The City Council Planning and Environment Committee (Council File No. 88-1845) has referred to the Zoning Administrator a request to clarify portions of the Municipal Code with respect to the requirements for off-street parking for ballrooms, meeting rooms and other assembly rooms in hotels and motels. In addition, recent conversations with officials of the Department of Building and Safety have brought out the need to clarify parking requirements for bingo parlors and churches in the face of inconsistent application of said requirements and lack of clarity in the Municipal Code. This document and the determinations contained in it address these issues. The determination set forth below is promulgated pursuant to Section 12.21-A,2 of the Municipal Code giving such authority to the Zoning Administrator.

Meeting Rooms, Ballrooms and Assembly Areas in Hotels and Motels

Municipal Code Section 12.21-A,4(e) requires that there be "at least one automobile parking space for each five seats contained within any theater, church, high school, college or university auditorium, or general auditorium, stadium or any other similar place of assembly." It also requires that where there are no fixed seats that "there shall be one parking space for each 35 square feet of floor area (exclusive of stage) contained therein." It is clear that the intent of these provisions of the Code is to provide sufficient off-street parking spaces for places of assembly separate and apart from other uses in a facility which generate trips and, as a result, a need for additional parking spaces.

One of several functions of many hotels and some motels is to provide meeting rooms and assembly areas for business, social and other groups to congregate for various legitimate purposes. A large proportion of the persons utilizing the hotel meeting room or place of assembly are at the hotel only for the purpose of attending the function taking place in that area. As such parking required by the Code for the hotel guest rooms or restaurants on the site are often inadequate to accommodate all

the vehicle parking needs on the site when functions in these areas are taking place. This frequently results in overflow parking on local streets adversely affecting traffic and available on-street parking for neighboring residential and commercial uses. The relevant provisions of the Municipal Code refer to "other place of assembly" in conjunction with establishing the parking standards for churches, auditoriums and the like. I believe that the parallels between such uses and meeting rooms in hotels and motels is clear. For these reasons, the Zoning Administrator believes that the already enacted provisions ought, and indeed do, apply to such meeting rooms and places of assembly.

In view of the above and pursuant to the authority contained in Section 12.21-A,2 of the Los Angeles Municipal Code, the Zoning Administrator determines that for hotels and motels with meeting rooms, ballrooms and assembly areas 750 square feet or larger (based on an occupancy load of 15 square feet per occupant and with a minimum of 50 occupants) that parking spaces shall be required in accordance with Section 12.21-A,4(e) for said meeting rooms and assembly areas in addition to the off-street parking spaces required for guest rooms, dwelling units, restaurants, and office space required pursuant to other provisions of Section 12.21-A,4 of the Municipal Code.

#### Bingo Parlors

The same rationale applies to bingo parlors. A number of institutions run bingo parlors as a means of supporting various activities pursuant to the regulations of the City governing such uses. These uses are often intensive in nature where large numbers of persons gather for this activity similar to that of any other assembly areas. Again, the potential exists for adversely affecting traffic and available on-street parking for the surrounding community if sufficient and available off-street parking space is not provided. The framers of the Municipal Code clearly intended that adequate parking be provided for such concentrations of persons and enacted the provisions prescribing adequate parking for assembly areas ensuring the provision thereof.

Again, in view of the above and pursuant to the authority contained in Section 12.21-A,2 of the Los Angeles Municipal Code, the Zoning Administrator determines that off-street parking spaces for bingo parlors of 750 square feet or larger shall be required in accordance with Section 12.21-A,4(e) (one space for each five seats or one space for each 35 square feet of floor area excluding any stage) in addition to the off-street parking spaces required for other uses on the site required pursuant to other provisions of Section 12.21-A,4 of the Municipal Code.

#### Churches and Houses of Worship

Traditionally, the City only required off-street parking for churches as that needed for the main sanctuary or assembly area of the house of worship. There is, however, no place in the Municipal Code which specifies that this is the appropriate practice or the intent of the Code. In fact, it could easily be argued that instead the standards for assembly areas ought to be applied to classrooms and meeting areas in



churches as well as the main sanctuary or assembly area. In recent years the practice of many places of worship has been to maximize the use of their physical facilities including the simultaneous use of assembly areas and classroom facilities. This has increased the need for parking on these sites. On some sites, however, classrooms are utilized only to provide instruction for a portion of the family or group attending the house of worship while others are attending activities in the main assembly area. Added parking in the latter instance is unnecessary.

Recently, the Department of Building and Safety has, in some instances, been requiring the provision of off-street parking for classroom space in churches in recognition of the often more intensive or multiple use of such sites. While the Zoning Administrator believes that this practice may be justified, the Administrator is concerned that in some instances the requirement is too onerous and in others far short of that which is actually needed. For example, the Zoning Administrator is also well aware that some houses of worship are strictly local serving institutions serving neighborhoods where people walk to church or that the practice of some groups prohibits the use of cars on days of worship. On the other hand, some churches are actively using their facilities up to their capacity for a large number of diverse uses on an almost 24 hour basis. Finally, the Zoning Administrator is aware that the imposition of a higher parking standard on some religious institutions in some portions of the community might mean the difference of whether or not it is feasible for such a church to be established.

The Zoning Administrator, in view of the lack of clarity in the Code, the conflicting concerns and the importance of this subject, does not believe it is not wise to abandon the City's long standing practice of only requiring parking for churches on the basis of the requirements for the main assembly area until a full study of the matter can be conducted and subjected to full public scrutiny and legislative action. Therefore, pursuant to the authority granted the Zoning Administrator pursuant to Section 12.21-A,2 of the Municipal Code, the Administrator hereby determines that off-street parking requirements for churches shall continue to be determined on the basis of the main assembly area or sanctuary of the church or house of worship. This latter action is intended only as a temporary one in order to provide a consistent application of parking standard in the hope that the City may review the current Code requirement for church parking to determine the appropriate standard to be applied.

#### Administrative Considerations

The above determinations are in fact applications of existing law. As such, there are no specific provisions in the Code to ensure that their immediate application occurs in a uniform and equitable manner. In order to ensure that these standards are applied in a fair and consistent manner and to minimize any hardships which might otherwise occur as a result of their application, the Zoning Administrator believes that the standards should be applied only to those projects

submitted for plan check (and completely sufficient for that purpose and suited to the site on which facility is to be constructed) after January 1, 1989.

A handwritten signature in dark ink, appearing to read "Franklin P. Eberhard", with a long, sweeping horizontal line extending to the right.

FRANKLIN P. EBERHARD  
Chief Zoning Administrator

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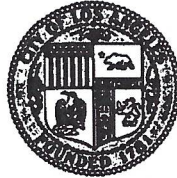
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December 19, 1989

Department of Building and Safety

RE: ZA 89-0944 (ZAI) SUP. I  
ZONING ADMINISTRATOR'S  
INTERPRETATION - SIGNS  
IN MINI-SHOPPING CENTERS

After adoption of the Mini-Shopping Center Ordinance (Ord. No. 164,201) and subsequent to Zoning Administrator's interpretation No. 89-0944 (ZAI) pertaining to Mini-Shopping Centers, a question has arisen concerning the proper interpretation of the regulations regarding the construction and maintenance of signs on property improved with a mini-shopping center for which a certificate of occupancy was issued on or before January 10, 1989. The question is whether or not conditional use authorization is required to currently erect signs in a mini-shopping center with a certificate of occupancy prior to January 11, 1989.

The purpose of this interpretation is to further clarify the intent of the regulations governing the placement of signs in such existing mini-shopping centers and has been prepared pursuant to the authority contained in Sections 12.21 A 2 and 12.27 D of the Los Angeles Municipal Code.

INTERPRETATION - NEW SIGNS IN MINI-SHOPPING CENTERS HAVING A CERTIFICATE OF OCCUPANCY ON OR BEFORE JANUARY 10, 1988.

Section 12.22 A 23 (c)(2) of the Municipal Code, as established by Ordinance No. 164, 201 (effective January 10, 1989) provides, as follows:

- (2) For an existing mini-shopping center, on or after January 1, 1989, no person shall establish as a new use, any of the uses enumerated in Paragraph (a)(1)(ii) of this Subdivision without first obtaining a conditional use approval if the site abuts, or is separated only by an alley or is located across the street from any portion of a lot zoned RA or R, or any residential use. In addition, no sign identified in Paragraph (a)(9) of this Subdivision shall be erected at the site without first obtaining a conditional use approval, unless a certificate of occupancy is issued as of the effective date of this ordinance" (emphasis added).

The signs identified in Paragraph (a)(9) are: off-site commercial signs; flashing or blinking signs; pennants, banners, ribbons, streamers, spinners or balloons; pole signs; projecting signs; or roof signs and monument signs and information signs if located only within the landscaped planted areas.

The effective date of Ordinance No. 164,201 which established the above provisions of the mini-shopping center regulations was January 10, 1988. The precise language and intent of the law in this matter clearly indicates that the erection of the signs enumerated above or the addition to or alteration of existing signs in a mini-shopping center having a certificate of occupancy after January 10, 1989 would require conditional use authorization. Conversely, the erection of or addition to or alteration of such signs in a mini-shopping center with a certificate of occupancy on or before January 10, 1989 would be exempt from such conditional use requirement.

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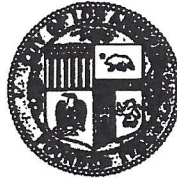


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August 16, 1989

Department of Building and Safety Re: CASE NO. ZA 89-0944(ZA1)  
ZONING ADMINISTRATOR'S  
INTERPRETATION - MINI  
SHOPPING CENTER

After adoption of the Mini Shopping Centers Ordinance (Ordinance No. 164,201) by the City Council, a significant number of questions have arisen concerning the proper interpretation of various provisions of these regulations. This document has been prepared in order to provide an interpretation of the law so that clarity and uniform application of the ordinance is achieved wherever possible, consistent with Commission, City Council and Mayoral actions. The action taken by the Chief Zoning Administrator is pursuant to the authority contained in Sections 12.21-A,2 and 12.27-D of the Los Angeles Municipal Code.

MORE THAN ONE BUSINESS

Some concern has been expressed concerning the meaning of the phrase "...2) used for more than one retail establishment such as a store, shop, business, service facility, ..." in the definition of a 'mini shopping center'. There is more than one business, etc., in a mini-shopping center site when any building or buildings are designed and configured so that more than one business might be located on the parcel or parcels that comprise the mini-shopping center site. In determining whether or not more than one business is considered to be located on a site, the configuration of the structure involved is to be examined. If the building is so subdivided that access to the various (more than one) portions of the structure are only accessible from the outside of the building (other than small storage areas), then it is to be presumed that more than one business is to be located on a site.

The interior layout of a building may also be examined to determine whether the layout is such that more than one business is likely to be established on a site. If a site interior is so designed as to likely hold more than one business then the site will be considered to have more than one business. However, the modification of the building plans by interconnecting the various areas in the building to the satisfaction of the Department of Building and Safety may result in a determination that the structure is considered to have a single business. Where such a determination is made, then the facility is not a mini-shopping center (where other aspects of the project conform to the definition of a

mini-shopping center). The Department of Building and Safety shall exercise its judgement in making a determination in this regard.

#### RESIDENTIAL USES

Projects which otherwise meet the definition of a mini-shopping center and which also include residential uses are mini-shopping centers. However, the residential use does not constitute another business, service or facility, etc., for the purpose of defining a "mini-shopping center".

#### SERVICE STATIONS

The definition of a "mini-shopping center" also includes an exception which reads as follows:

"...An automobile service station, including service bay areas, where accessory food sales do not exceed 600 square feet of floor area and other accessory uses do not exceed 500 square feet of floor area,...."

1. The framers of the ordinance were cognizant that a gas station normally includes a small area for the sale of automotive parts, lubricants and the like and wished that this normal, incidental activity be permitted in addition to the area permitted for other sales so long as the area did not exceed a certain size (500 square feet). In a mini-shopping center, the automotive related sales normally take place in the food and sundry sales floor area rather than in a separate part of the gas station. Therefore, a gas (or service) station which has a sales area where both the sale of sundry foods and other items also includes the sale of automotive items, may have an area(s) devoted exclusively to the sales of automotive related items not to exceed 500 square feet along with a food and a sundry sales area(s) not to exceed 600 square feet in area is not considered a "mini-shopping center" but not to exceed a combined area of 1,100 square feet. The 600-square-foot food sales allowance does not include wall coolers which are used largely for the storage of items for sale. This includes walk-in coolers.

The gas pumping area, toilets or wash areas, storage rooms, and the automotive service bays are a part of the main use of the site and are not included in the 500 square-foot allowance.

Therefore, a maximum of 1,100 square feet in total can be devoted to a combination of sundry sales (500 square feet, maximum) and accessory sales (600 square feet, maximum) associated with the normal operation of a gas station.

2. Car washes are considered among these accessory uses under the proceeding provision only when they are 500 square feet or less in size and are not open after 9 o'clock at night or before 7 o'clock in the morning.



CONDITIONAL USE PERMITS REQUIRED

Section 5 of the Ordinance adds a new subdivision to Section 12.22 of the L.A.M.C. and defines the regulations applicable to mini-shopping centers.

1. Section 12.22-A,23(a) sets forth standards and conditions which, if completely satisfied, permit the development to proceed without having to obtain a conditional use permit to allow the mini-shopping center. If these standards are not met, then either a conditional use permit or a conditional use permit with a variance is required. Specifically, if the requirements of the Municipal Code are met, other than one or more of the standards set forth in Section 12.22-A,23(a) of the Code, then a conditional use permit through the Office of Zoning Administration must be obtained. If, however, the mini-shopping center does not meet the standards contained in other portions of Chapter 1 of the Municipal Code as well as those set forth in Section 12.23-A,23(a) of the Code, then a conditional use with a variance (insert) must be processed through the Office of Zoning Administration. Such applications must indicate what matters require a zone variance and what are subject to the conditional use approval.

2. Section 12.22-A,23(a)(1) specifies that only the uses otherwise permitted in the underlying zone are to be allowed on a site.

That section [subparagraphs (iii) and (iii)] also set forth certain uses which when located in a mini-shopping center which abuts or is separated only by an alley, or is located across the street from any portion of a lot in a lot zoned "RA" or "R" or any residential use, which does not otherwise require a conditional use permit or some other discretionary approval by the Department, mandates conditional use approval for the mini-shopping center. These uses are:

- a. Drive through fast food establishments,
- b. A business which operates between the hours of 9 p.m. and 7 a.m.
- c. amusement enterprises including:
  - (1) a billiard or pool hall;
  - (2) bowling alley;
  - (3) games of skill and science;
  - (4) penny arcades (includes those with less than 4 coin or slug operated or electrically, electronically or mechanically controlled game machines);
  - (5) shooting gallery;

- (6) skating rink and
  - (7) the like, and
  - d. automobile laundry or wash racks (car washes over 500 square feet in size or open after 9 p.m. or before 7 a.m.).
3. Section 12.22-A,23(a)(3) of the L.A.M.C. specifies that "no building or structure shall exceed a maximum height of forty (40) feet."
- a. This provision does not supersede the more restrictive provisions of the Municipal Code regulating the height of buildings. For instance, where a mini-shopping center is in the 1-XL Height District, a building or structure constructed on the site must not exceed 30 feet or two stories in height. Or, if a mini-shopping center is located within a "C" or "M" Zone and is within certain specified distances from the RW1 or more restrictive Zone, it cannot exceed in height either 40 feet or the maximum height permitted in Section 12.21-A,10 of the L.A.M.C. (transitional heights) whichever is the most restrictive.
  - b. The 40-foot height limitation may not be exceeded through the conditional use process. A zone variance is required. (Note Section 12.24-C,1.5(k)(1) limitation to 40 feet in height or less.)

#### ZONE VARIANCES

Section 12.22-A,23(b) of the Municipal Code includes certain conditions relating to operation and maintenance of all mini-shopping centers. To deviate from these requirements in a new mini-shopping center for which a building permit is issued on or after the effective date of the ordinance necessitates approval by zone variance. This also applies when a new conditional use permit is required pursuant to Ordinance No. 164,201 for an existing "mini shopping center".

#### CONVERSION OR EXPANSION OF EXISTING MINI-SHOPPING CENTERS

Existing "mini-shopping centers" have deemed-to-be-approved conditional use status and shall be governed in accordance with the rules and procedures normally associated therewith except as set forth in Section 12.22-A,23(c)(1) of the Municipal Code which specifies rules as to conversion of existing buildings to or in mini-shopping centers. The following apply:

1. The term existing buildings is construed to mean those buildings in "mini-shopping centers" as defined having valid Certificates of Occupancy (note including temporary certificates of occupancy) issued prior to the effective date of the ordinance (January 10, 1989). A valid Certificate of Occupancy does not include Temporary Certificates of Occupancy unless the only construction remaining on the site relates to tenant improvements.



2. Section 12.22-A,23(c)(1)(ii) of the Code requires a new conditional use permit when alterations to an existing mini-shopping center equal or exceed a 20 percent increase in gross floor area of all buildings on the site. This 20 percent or greater increase in gross floor area is cumulative and is calculated based on the floor area of the building(s) as shown on the original building permit, plus any legal expansion (as evidenced by a Certificate of Occupancy) issued prior to January 10, 1989, authorizing construction of the mini-shopping center on the site.
3. Section 12.22-A,23(c)(2) of the Municipal Code requires the following:
  - a. Conditional use approval is required for existing mini-shopping center sites (those for which building permits were issued prior to January 1, 1989) where one or more of the uses listed in paragraph (a)(1)(ii) of the Section 12.22-A,23 of the Code is on a site and is newly established and the mini-shopping center abuts, or is separated only by an alley, or is located across the street from any portion of a lot zoned RA or R or any residential use.
  - b. Where a mini-shopping center existed on or before December 31, 1988 (e.g. a Certificate of Occupancy for the shopping center was issued) signs may constructed and maintained without conditional use approval for the mini-shopping center so long as they conform to the City's sign regulations set forth in other portions of the Municipal Code.

#### PARKING REQUIREMENTS

Section 12.22-A,23(a)(2) of the Code sets forth minimum parking requirements which must be met if a mini-shopping center to be permitted by right. Should an applicant meet the standards contained in Section 12.21-A,4 but not those set forth in this provision, then a conditional use permit must be obtained. If, in addition, the project does not meet Code required parking set forth for all commercial development, then a conditional use permit with a zone variance insert will be required in order for a mini-shopping center to be permitted. Mini-shopping center parking requirements are listed below:

1. A minimum of four parking spaces per 1,000 square feet is required for all buildings excluding residential uses on a mini-shopping center site.
2. However, if the total floor area devoted to restaurant use (serving area, kitchen, storage) exceeds 20 percent of the total floor area of the mini-shopping center, then the parking requirement is one parking space for each 200 square feet (or five spaces per 1,000 square feet) of floor area for the entire development including those portions of the mini-shopping center not devoted to restaurant use. Fast-food establishments (cookie sales, yogurt, etc.) no matter what the seating are considered restaurants for the purposes of this ordinance and establishing parking requirements.

3. Additions made to existing developments (in this instance projects having valid building permits issued prior to the effective date of the ordinance, i.e., January 10, 1989) which are, or as a result of the addition are, considered to be mini-shopping centers pursuant to the definition contained in Section 12.03 and must meet the parking requirements set forth above. In such cases the parking for the existing development is not recalculated, only that pertaining to the addition. If the existing shopping center contains restaurants for which the total floor area exceeds 20 percent of the shopping center or if the addition brings the percentage of floor area devoted to restaurant usage in the shopping center to above 20 percent, then the additional parking will be calculated at ratio five parking spaces per 1,000 square feet for all of the addition including both restaurant and non-restaurant alike. If the floor area of the entire mini-shopping center devoted to restaurant use is 20 percent or less after the addition; only the parking for the addition will be calculated at four parking spaces per 1,000 square feet of floor area.
4. In instances where mini-shopping centers are constructed after the effective date of the ordinance (January 10, 1989), the parking requirement for the entire site (excluding residential uses) must meet the standards set forth in 1 and 2 above as appropriate. For example, if a project is first constructed (after January 10, 1989) at the four spaces per 1,000-square-foot standard and is later added to bringing the total square footage devoted to restaurant use above 20 percent of the total area, the parking for the entire site must be provided at a ratio of five parking spaces per 1,000 square feet of floor area. In cases where developers are building mini-shopping center projects and the mix of restaurant to other uses is not known, developers should be advised to provide parking at the five per 1,000-square-foot standard to ensure that parking sufficient to meet the five per 1,000-square-foot standard is available if required. Developers should also be made aware that if the 20-percent standard is not met in such a case, that a conditional use permit will be required.
5. In any instance where a specific plan or other parking standards are different than those set forth in the Mini-shopping Center Ordinance, those standards prevail. For example, parking for clinics and health clubs in mini-shopping centers must conform to the standards contained in Section 12.21-A,4 of the Municipal Code for those uses.
6. These parking requirements do not apply to residential uses in the mini-shopping center which shall conform to the residential parking standards contained in the L.A.M.C.

#### SPECIFIC PLANS

Where a specific plan which has been duly enacted by the City and contains explicit language, standards which are clearly and explicitly in conflict with those contained in Ordinance No. 164,201 or any part of



the Zoning Code for that matter, the standards in the specific plan shall prevail. Where a specific plan does not contain language which specifically is in conflict with the Code, the Code provision is applicable.

#### EXEMPTIONS

Section 8 of Ordinance No. 164,201 contains provisions not incorporated into the Municipal Code which exempt certain categories of projects from the regulations contained in the regulations. There are some possibilities for misinterpreting its language. The following is intended to eliminate this confusion.

1. Section 8 of Ordinance No. 164,201 provides that for projects where plans have been submitted to the Department of Building and Safety which are sufficient for a complete plan check and the entire plan check fee was collected both on or before June 28, 1988 and, further, where the project did not at the time require a project permit as a mini-shopping center pursuant to the interim control ordinance in effect at that time, that such a project would not be subject to the ordinance. This exemption is also subject to the condition that no changes in square footage or height more than five percent of the original are permitted and that construction must have commenced by January 10, 1990 (365 days from the effective date of the Ordinance).
2. Section 8 of Ordinance No. 164,201 also provides that building permits may be issued for projects which received discretionary approvals between January 1, 1986 and November 1, 1988 notwithstanding the other provisions of this law. The November 1, 1988 date was chosen in order to avoid a rush to escape the provisions of the ordinance. Hearings had been held at that time with full notice and publicity of the proceedings. The purpose of the exemption is to eliminate the "double jeopardy" of another review process where a discretionary process had taken place after January 1, 1986 and included evaluation and approval of the mini-shopping center. As such, changes of zone or plan amendments which were enacted pursuant to the City's Zoning Consistency Program where such projects were not individually evaluated do not qualify for this exemption from the provisions as such projects were not individually evaluated and therefore do not qualify for this exemption from the provisions of the Mini-shopping Center Ordinance.
  - a. The ordinance is silent as to the status of projects which received such discretionary approval between November 1, 1988 and the effective date of the Ordinance (January 10, 1989). (Projects which received another discretionary approval which fully considered the entire development of the site, are exempt from the requirements of the mini-shopping center ordinance if such approval was received between January 1, 1986 and November 1, 1988.) The plain language of the law, then, does not exempt projects which received such discretionary approval after November 1, 1988 nor before

January 10, 1986 no matter how logical or equitable such an exemption would seem. The language of the ordinance is clear on this matter and further interpretation of this provision is not possible since it would amount to legislating which is beyond the authority of the Zoning Administrator.

- b. A project which has secured a building permit and legally commenced construction pursuant to regulations affecting mini-shopping centers (mini-malls) or commercial uses prior to the January 10, 1989 are exempt from its provisions except as described in the next paragraph of this document.



FRANKLIN P. EBERHARD  
Chief Zoning Administrator

FPE:lmc

cc: Director of Planning  
County Assessor  
All Council Districts  
Board of Zoning Appeals  
Planning Commission

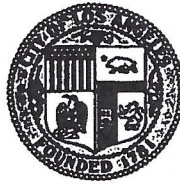


**CITY OF LOS ANGELES**  
CALIFORNIA

ROBERT JANOVICI  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JAMES J. CRISP  
DANIEL GREEN  
ALBERT LANDINI  
WILLIAM LILLENBERG  
JOHN J. PARKER, JR.  
JON PERICA  
HORACE E. TRAMEL, JR.



RICHARD J. RIORDAN  
MAYOR

DEPARTMENT OF  
**CITY PLANNING**  
CON HOWE  
DIRECTOR

FRANKLIN P. EBERHARD  
DEPUTY DIRECTOR

**OFFICE OF  
ZONING ADMINISTRATION**

ROOM 600, CITY HALL  
LOS ANGELES, CA 90012-4801  
(213) 485-3851

April 6, 1995

Mark Brown  
Brown/Meshul, Inc.  
3733 Motor Avenue, #302  
Los Angeles, CA 90034-6403

Department of Building and Safety

CASE NO. ZA 89-0762(ZA1)  
LETTER OF CORRECTION  
Lots 6 through 23, Block 16,  
and Lots 6 through 23, Block 17  
of Del Rey Beach Tract  
Venice Planning Area  
Zone : R1-1  
D. M.: 100.5A149, 99-149  
C. D.: 6  
CEQA : CE 89-0881

On October 13, 1989, the Associate Zoning Administrator issued a determination on the subject case authorizing a request:

to permit:

- a. the establishment of 0-foot rear yards for 36 R1-1 zoned lots, in lieu of the 15 feet required, for Lots 6 through 23 of Block 16 and Lots 6 through 23 of Block 17 of the Del Rey Beach Tract;
- b. the construction, use and maintenance of 6-foot over-in-height fences, walls and hedges in the required front yards of 27 R1-1 zoned lots, in lieu of the 3-1/2-foot height permitted, for Lots 6 through 23 of Block 16 and Lots 6, 8, 10, 12, 14, 16, 18, 20 and 22 of Block 17 of the Del Rey Beach Tract;
- c. the construction, use and maintenance of 8-foot over-in-height fences and walls, with integral 8-foot raised patios and hedges, in the required front yards of 9 R1-1 zoned lots, in lieu of the 3-1/2-foot height permitted for Lots 7, 9, 11, 13, 15, 17, 19, 21 and 23 of Block 17 of the Del Rey Beach Tract. The fences or walls structurally relate to and support patio decks which extend 13 feet into the required front yard having a height of 8 feet above the natural grade level in lieu of the 6 feet permitted;
- d. the establishment of approximate 3-1/2-foot side yards for the establishment, use and maintenance of two-story over basement, 45 feet in height, single-family, residential dwellings for 36 R1-1 zoned lots, in lieu of the required approximate 4-1/2-foot side yards, for Lots 6 through 23 of Block 16 and Lots 6 through 23 of Block 17 of the Del Rey Beach Tract; and,

- e. the construction, use and maintenance of 8-foot over-in-height fences, walls and hedges; and, the construction, use and maintenance of 13-foot 10-inch over-in-height platforms (i.e., landings) with protective hand railings, all in the required side yards of 36 R1-1 zoned lots, in lieu of the 6 feet permitted, for Lots 6 through 23 of Block 16 and Lots 6 through 23 of Block 17 of the Del Rey Beach Tract. (Letter of Correction dated February 22, 1990)

In a letter dated March 16, 1995, Mark Brown has told the Administrator that:

"The applicant wishes to modify the original project to allow a single-family home to be constructed on Lots 6 and 8, Block 17, Del Rey Beach Tract. Since the dwelling would be located on a larger parcel of land the applicant proposes that the structure be situated on the subject parcel of land in a manner to conform with the R1-1 Zone side yard setback regulations. To retain a development of this property consistent with the adjoining 34 lots it is also intended that all other improvements be consistent with the deviations as granted in extant ZA 89-0762(ZAI). Your confirmation of this matter is appreciated."

The Administrator agrees that for reasons of privacy, security and uniformity of appearance, the bulk of the aforementioned grant should apply to these two lots.

Therefore, the Administrator determines that for Lots 6 and 8 of Block 17 only:

Paragraphs a, b and e of the grant clause will continue to apply to the proposed single-family project.

Paragraph c does not apply.

Paragraph d is deleted.

All other terms and conditions of ZA 89-0762(ZAI) shall remain as originally written.



JOHN J. PARKER, JR.  
Associate Zoning Administrator

JJP:lmc

cc: Councilmember Ruth Galanter  
Sixth District



FRANKLIN P. EBERHARD  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JAMES J. CRISP  
DARRYL L. FISHER  
ROBERT JANOVICI  
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JON PERICA  
JACK C. SEDWICK

CITY OF LOS ANGELES  
CALIFORNIA



TOM BRADLEY  
MAYOR

DEPARTMENT OF  
CITY PLANNING  
KENNETH C. TOPPING  
DIRECTOR

KEI UYEDA  
DEPUTY DIRECTOR

OFFICE OF  
ZONING ADMINISTRATION

Room 600, City Hall  
Los Angeles, CA 90012-4801  
(213) 485-3851

February 22, 1990

Del Rey Associates, Inc.  
Clifford Rome, Manager  
5210 Pacific Avenue  
Marina Del Rey, CA 90292

Mark Brown  
c/o Brown & Meshul, Inc.  
3895 Main Street, #201  
Culver City, CA 90232

Re: CASE NO. ZA 89-0762(ZA1)  
LETTER OF CORRECTION  
Lots 6-23, Block 16 and Lots  
6-23, Block 17 of Del Rey  
Beach Tract  
Venice Planning Area  
Zone R1-1  
D.M.'s 100.5A149, 99-149  
C.D. 6  
EIR: CE 89-0881

Department of Building and Safety

On October 13, 1989, the Zoning Administrator issued a determination in the subject case granting a Zoning Administrator's interpretation for certain reduced yards; over-in-height fences, walls, hedges, patios and platforms in required yard areas; and, reduced side yards, all in conjunction with the development of 36 R1-1 zoned lots at the stated legal location in the Venice community. Specifically, (e) of the grant request on Page 2 permitted:

- e) the construction, use and maintenance of 8-foot over-in-height fences, walls, hedges and platforms in the required side yards for 36 R1-1 zoned lots, in lieu of the 6 feet permitted, for Lots 6 through 23 of Block 16 and Lots 6 through 23 of Block 17 of the Del Rey Beach Tract.

On February 13, 1990, the Zoning Administrator was advised that after the completion of a more comprehensive land survey of the property, it was discovered that the platforms (i.e., landings) with protective hand railings for single-family residences on each of the 36 lots would be located at a maximum height of 13 feet 10 inches in lieu of the 8 feet specified; and, a correction was requested to reflect this situation.

In the opinion of the Zoning Administrator, the request has merit. Over-in-height landings or platforms with protective hand railings are common in the area being located in side yards. Exact elevations above grade are not always known in the preliminary planning stages of a project; and, the increase in the permitted height of platforms and landings with protective hand railings from 8 feet to 13 feet 10 inches does not result in identifiable adverse impacts or issues of land use significance.

Therefore, (e) of the subject grant request is hereby corrected to read as follows:

- e) the construction, use and maintenance of 8-foot over-in-height fences, walls and hedges; and, the construction, use and maintenance of 13-foot 10-inch over-in-height platforms (i.e., landings) with protective hand railings, all in the required side yards of 36 R1-1 zoned lots, in lieu of the 6 feet permitted, for Lots 6 through 23 of Block 16 and Lots 6 through 23 of Block 17 of the Del Rey Beach Tract.

You are advised to correct your copy of the determination accordingly and are further advised that this correction shall in no way be construed as changing any of the other terms and conditions of said determination which shall remain as originally set forth.



JAMES J. CRISP  
Associate Zoning Administrator

JJC:lmc

cc: Director of Planning  
County Assessor  
Councilwoman Ruth Galanter  
Sixth District  
Bureau of Engineering, Street  
Opening and Widening Division  
California Coastal Commission



FRANKLIN P. EBERHARD  
CHIEF ZONING ADMINISTRATOR

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CITY OF LOS ANGELES  
CALIFORNIA



TOM BRADLEY  
MAYOR

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DEPUTY DIRECTOR

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ROOM 600, CITY HALL  
LOS ANGELES, CA 90012-4801  
(213) 485-3851

October 13, 1989

Del Rey Associates, Inc.  
Clifford Rome, Manager  
5210 Pacific Avenue  
Marina Del Rey, CA 90292

Mark Brown  
c/o Brown & Meshul, Inc.  
3895 Main Street, #201  
Quiver City, CA 90232

Re: CASE NO. ZA 89-0762(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION  
Lots 6 through 23, Block 16,  
and Lots 6 through 23, Block  
17 of Del Rey Beach Tract  
Venice Planning Area  
Zone R1-1  
D.M.'s 100.5A-149, 99-149  
C.D. 6  
EIR: CE 89-0881

Department of Building and Safety

In the matter of the application of Del Rey Associates, Inc., for a Zoning Administrator's Interpretation, please be advised that based upon the Findings of Fact hereinafter set forth and by virtue of the authority contained in Section 98 of the City Charter and Section 12.27-C of the Municipal Code, the Zoning Administrator hereby grants an interpretation to permit:

- a) the establishment of 0-foot rear yards for 36 R1-1 zoned lots, in lieu of the 15 feet required, for Lots 6 through 23 of Block 16 and lots 6 through 23 of Block 17 of the Del Rey Beach Tract;
- b) the construction, use and maintenance of 6-foot over-in-height fences, walls and hedges in the required front yards of 27 R1-1 zoned lots, in lieu of the 3-1/2-foot height permitted, for Lots 6 through 23 of Block 16 and Lots 6, 8, 10, 12, 14, 16, 18, 20 and 22 of Block 17 of the Del Rey Beach Tract;
- c) the construction, use and maintenance of 8-foot over-in-height fences and walls, with integral 8-foot raised patios and hedges, in the required front yards of 9 R1-1 zoned lots, in lieu of the 3-1/2-foot height permitted for Lots 7, 9, 11, 13, 15, 17, 19, 21 and 23 of Block 17 of the Del Rey Beach Tract. The fences or walls structurally relate to and support patio decks which extend 13 feet into the required front yard having a height of 8 feet above the natural grade level in lieu of the 6 feet permitted;

- d) the establishment of approximate 3-1/2-foot side yards for the establishment, use and maintenance of two-story over basement, 45 feet in height, single-family, residential dwellings for 36 R1-1 zoned lots, in lieu of the required approximate 4-1/2-foot side yards, for Lots 6 through 23 of Block 16 and Lots 6 through 23 of Block 17 of the Del Rey Beach Tract; and,
- e) the construction, use and maintenance of 8-foot over-in-height fences, walls, hedges and platforms in the required side yards for 36 R1-1 zoned lots, in lieu of the 6 feet permitted, for Lots 6 through 23 of Block 16 and Lots 6 through 23 of Block 17 of the Del Rey Beach Tract,

upon the following terms and conditions:

1. That the use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibits "A-1" and "A-2".
2. That all other use, height and area regulations of the Municipal Code be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
3. That the herein-authorized zoning interpretation shall be of no force and effect unless and until written clearance has been obtained from the Bureau of Engineering and attached to the file assuring that all dedications and improvements have been provided or guaranteed.

The applicant's attention is called to the fact that this authorization is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then this authorization shall be subject to revocation as provided in Section 12.27 of the Municipal Code. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions of this grant. The Zoning Administrator's determination in this matter will become effective after October 28, 1989, unless an appeal therefrom is filed with the Board of Zoning Appeals. Any appeal must be filed on the prescribed forms, accompanied by the required fee and received and receipted at a Public Office of the Department of City Planning on or before the above date or the appeal will not be accepted.

#### FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the research of the Zoning Analyst, evaluation of previous approvals of Case Nos. ZAI 80-007 and ZAI 82-281, all of which are by reference made a part hereof, as well as personal knowledge of the property and the surrounding district, I find that the requirements for



granting an interpretation under the provisions of Section 12.27-C of the Municipal Code have been established by the following facts:

1. The ownership of the 36 lots have been united into a single development endeavor through the formation of Del Rey Associates, Inc., a non-profit unincorporated association; and, affirmed by the City's approval of CDP 86-005 and by the California Coastal Commission's approval of CDP 5-87-112A to permit grading and the installation of off-site and other public improvements. To that end two alleys are being widened to a width of 28 feet with the property owners in Block 16 (Lots 6 through 23) voluntarily dedicating 6.5 feet, property owners in Block 17 (Lots 6, 8, 10, 12, 14, 16, 18, 20 and 22) voluntarily dedicating 7.5 feet; and, property owners in Block 17 (Lots 7, 9, 11, 13, 15, 17, 19, 21 and 23) dedicating 5.5 feet. Property owners fronting on Via Marina are voluntarily dedicating an additional 3 feet on said street for sidewalk purposes; two pedestrian malls are being improved from Via Donte to Los Angeles County boundary line; and, Via Marina Street is being dedicated and improved. Since the substandard lot size for the 36 lots has been reduced by the dedications, particularly the lots fronting on Via Marina Street; and, in view of previous approvals for identical land use issues and the adverse intrusion caused by traffic drawn to this area from outside the community including the public assembly to the parking lot/walkway area along Via Marina, there is a distinct need to provide for the privacy and security of the residents and to provide reasonable buildable areas on the 36 lots. Therefore, the involved requests would appear to be both reasonable and appropriate since all 36 lots share common problems of location within a beach community.
2. In view of the aforementioned discussion, it is hereby determined that the herein-authorized over-in-height fences, walls, hedges and raised patios in required front yard and side yard areas, 0-foot rear yards, and 3-1/2-foot side yards, conform with the purpose and intent of the zoning regulations, having no material detriment to the public welfare or adverse impacts on adjacent properties and improvements. The categorical exemption issued on July 5, 1989, is certified as being adequate in its environmental assessment of the project and it is noted that the involved site is located in Zone B, subject to the provisions of the Flood Hazard Management Specific Plan.



JAMES J. CRISP  
Associate Zoning Administrator

JJC:lmc

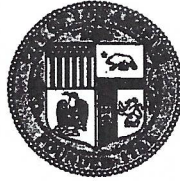
cc: Director of Planning  
County Assessor  
Councilwoman Ruth Galanter  
Sixth District  
Bureau of Engineering, Street  
Opening and Widening Division  
California Coastal Commission  
Adjoining Property Owners

FRANKLIN P. EBERHARD  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JAMES J. CRISP  
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CITY OF LOS ANGELES  
CALIFORNIA



TOM BRADLEY  
MAYOR

DEPARTMENT OF  
CITY PLANNING  
KENNETH C. TOPPING  
DIRECTOR

KEI UYEDA  
DEPUTY DIRECTOR

OFFICE OF  
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Room 600, City Hall  
Los Angeles, CA 90012-4801  
(213) 485-3851

February 1, 1990

Walter Abronson, President  
EDC, Inc. and Partners  
Architecture & Environmental Design  
6753 Hollywood Boulevard, 6th Floor  
Hollywood, CA 90028

Re: CASE NO. ZA 89-1339(ZA1)  
INTERPRETATION OF SECTION  
12.21.1-B,2 OF THE L.A.M.C.-  
MEASUREMENT OF HEIGHT OF  
BUILDINGS ON SLOPING LANDS

Department of Building and Safety

Both Mr. Walter Abronson and the Department of Building and Safety have requested an interpretation of Section 12.21.1-B,2 of the Los Angeles Municipal Code (Code) which sets forth an exception to the height regulations contained in Section 12.21.1-A of the Code. Briefly, that section states in part the following:

"When the elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of a building exceeds grade by more than 20 feet, a building may exceed the height in number of feet prescribed in this section by not more than 12 feet."

The height of a building is measured from grade which is defined in the Code as "the lowest point of elevation of the finished surface of the ground, paving or sidewalk within an area between the building property line, or when the property line is more than 5 feet from the building between the building and a line 5 feet from the building." Thus, where there is such a difference in elevation measured as described above and there is a 45-foot height limitation, a building as high as 57 feet may be built. Where there is a 30-foot limitation, a 42-foot high structure may be constructed. And, where there is a 75-foot height limitation an 87-foot high building may be developed.

The confusion arises, however, with the second sentence in Section 12.21.1-B,2 which states the following:

"However, no such additional height shall cause any portion of the building or structure to exceed a height of 45 feet, as measured from the highest point of the roof structure or parapet wall to the ground surface which is vertically below said point of measurement."

Clearly, this whole paragraph was placed in the Code so that the practice of measuring the height from the lowest point of the finished



surface ground would not be punitive in nature, but also so that an excessively massive building would not result. The Code language arguably achieves these goals where the height limitation is 45 feet which now exists in most all single-family zones and where the "1VL" Height District designation exists. The confusion arises when the Height District designation is either "1L" or "1XL", limiting the height of buildings to 75 feet or 30 feet, respectively.

A literal application of this language when applied in the case of the "1L" designation is, in spite of the apparent 87-foot permitted and the 75-foot designation that the writers of the Code, using the second sentence "plumb line" measurement of 45 feet, required that at no point could the building exceed 45 feet instead of the 75 feet indicated. Further, the literal interpretation of the language for properties designates "1XL" would seem to authorize a 42-foot (30 feet plus 12 feet) high building throughout as opposed to the intended 30 feet as indicated by that designation. In the former case a literal application of this language would appear to more severely restrict the height of buildings than anyone intended and in the latter case it would allow a building which is higher and more massive than anyone intended.

In reviewing this matter, I believe that the framers of the Code were attempting to describe a methodology, by which height of buildings are determined while dealing in a uniform manner with building height and mass. A viewing of the Code files on this matter shows that at the time the original work on this ordinance was done the "1XL" category did not exist and that the problem or situation described here was simply not considered, understood or envisioned.

Because I believe a strict or liberal reading of this Code section is not what is either intended or meant by the City Planning Commission, City Council or Mayor on enacting Section 12.21.1-B,2 of the Code, I believe the following understanding of this section is appropriate:

"2. When the elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of a building exceeds grade by more than 20 feet, a building or structure may exceed the height in number of feet prescribed in this section by not more than 12 feet. However, no such additional height shall cause any portion of the building or structure to exceed a height in number of feet prescribed by this section, as measured from the highest point of the roof structure or parapet wall to the elevation of the ground surface which is vertically below said point of measurement."

This would allow on the "1XL" designated properties where this exception is applicable a maximum building height of 42 feet but at no single point using the "plumb line" approach would the building be permitted to exceed 30 feet in height. Similarly, in a "1L" designated property in the R4 and less restrictive zones where this exception applies, a maximum height of 87 feet would be allowed but within a single portion of the building nothing exceeding 75 feet would be allowed as measured with the "plumb line" method.

This interpretation or ruling is to be published in a daily newspaper of general circulation as a rule of general application pursuant to Section 12.27-D of the Municipal Code. Further, the Zoning Administrator's determination in this matter will become effective after February 16, 1990, unless an appeal therefrom is filed with the Board of Zoning Appeals. Any appeal must be filed on the prescribed forms, accompanied by the required fee and received and receipted at a Public Office of the Department of City Planning on or before the above date or the appeal will not be accepted.

*Jack C. Setwick*  
JACK C. SETWICK  
Chief Zoning Administrator

JCS:lmc





# Los Angeles City Board of Zoning Appeals

Room 504, City Hall, Los Angeles, Ca 90012-4856 (213) 485-2470

Mailing Date: May 25, 1990

B.Z.A. Case No. 4188  
Z.A. Case No. 89-1339-ZA1  
Environmental: N/A

Address: Citywide  
Community Plan: Citywide  
Zone: N/A  
Council District: All  
D.M. N/A  
Legal: N/A

Applicant: None  
Appellant: Walter Abronson

## BOARD OF ZONING APPEALS DETERMINATION REPORT

Meeting Date: April 10, 1990

### Summary of determination action:

Appeal denied  
Z.A. upheld

### Effective Date:

Effective upon the mailing of  
this report

### Appeal Status:

Not appealable

### Vote summary:

Moved: Patsaouras  
Seconded: Olansky  
Aye(s): Lamaute  
No(es): Leewong  
Absent: Mandel

James D. Leewong, Chair

Anne V. Howell, City Planner

cc: The determination notice list attached to the case file.

BOARD OF ZONING APPEALS DETERMINATION REPORTBACKGROUND AND APPEAL REQUEST:

1. On February 1, 1990, Zoning Administrator Jack C. Sedwick issued an interpretation of Municipal Code Section 12.21-B,2 (exception to the height regulations contained in Municipal Code Section 12.21.1-A which allows buildings to exceed Code height limits by not more than 12 feet).
2. The protestant appealed the interpretation.

BY VIRTUE OF THE AUTHORITY VESTED IN IT BY CHARTER SECTION 99 AND MUNICIPAL CODE SECTION 12.28, THE BOARD:

1. Pursuant to Board of Zoning Appeals Case No. 4188 and Zoning Administration Case No. 89-1339-ZAI, denied the protestant appeal.
2. Upheld the Zoning Administrator Interpretation.

SUMMARY OF THE HEARING:

1. The Zoning Administrators Jack Sedwick and Franklin P. Eberhard stated that:
  - a. There has been no challenge to the subject height regulations since they were established in 1986.
  - b. The charts submitted by Mr. Sedwick show how the regulations are to be interpreted.
  - c. The City defines the Height District No. 1XL height envelop as 30 feet over the entire project. However, Mr. Eberhard stated that "language in the Code can lead to another interpretation."
  - d. Measurement is from the lowest spot within five feet of the building.
  - e. This Zoning Administrator Interpretation (ZAI) will add the necessary clarity to the Code. It will be published but it will not be a part of the Code.
2. The protestant's representative submitted charts indicating how the protestant interprets the Code.
  - a. The Code is not ambiguous.
  - b. Height District No. 1XL (Municipal Code Section 12.21.1-B) limits height to 30 feet, if the parcel is flat. But, if there is a slope, an additional 12 feet of height (Code Section 12.21.1-B.2) is permitted provided that the maximum height is no more than 45 feet at any point. Measured from the lowest grade, a building could be 42 feet in height.
  - c. In 1980, the Code allowed a maximum 45-foot height with allowances for slope. But there were abuses by people who artificially increased building height by adding planters and similar items.



- d. The Code was changed in 1986 to correct such abuses.
  - e. The appeal involves no particular project.
  - f. The exceptions section of the Code allows the 12 feet of additional height for slope and additional height for such structures as chimneys.
  - g. The Zoning Administrator is not interpreting the Code; he is changing the Code.
3. The protestant's architect outlined why the protestant requested the ZAI:
- a. There is a particular project which is in the planning stages.
  - b. The architect read the Code and interpreted it the same way as the ZAI interprets it.
  - c. The protestant disagreed with the architect and told him to contact Mr. Eberhard for an interpretation.
  - d. Mr. Eberhard stated the interpretation that is in the ZAI. The protestant disagreed. Mr. Eberhard advised that the protestant should write a letter requesting a ZAI so that the matter could be appealed to the Board.
  - e. The protestant wrote the request letter. The Zoning Administrator wrote the ZAI and the protestant file an appeal.
4. The representative of Councilman Zev Yaroslavsky spoke in support of the ZAI.
- a. She stated that she had been on the committee which drafted the 1986 Code amendment.
  - b. The intent was to establish a 30-foot envelop and to treat flatlands the same as slopes.
  - c. There has not been a problem until now.
  - d. If the Code is unclear, she would be glad to submit a Code amendment to Mr. Yaroslavsky for immediate transmittal to the City Council.
5. A representative of the Laurel Canyon Homeowners' Association spoke in support of the ZAI.
- a. The only exceptions are for chimneys, elevators and non-floor area structures.
  - b. There have been tremendous abuses by developers who have become clever at figuring out how to manipulate the Code.
6. A representative of the Woodland Hills Homeowners' Association spoke in support of the ZAI.

- a. The Code should be amended to require that the grade be established at the time the initial plans are submitted.
  - b. Something should limit height, regardless of bulk.
  - c. Variances could be secured, and are secured now, for buildings which are on steep slopes. The variance procedure is a proper procedure for allowing the additional height.
  - d. The U.S. Supreme Court has ruled that a built 13-story building was not allowed relief from the regulations if the owner did not know the regulations and had been given incorrect advice by city officials. The Court ruled that it was the obligation of the developers to know the code and not to rely on the opinions of city officials.
7. A representative of the Westside Civic Federation spoke in support of the ZAI. The Federation's understanding is that the height envelop is the same over the entire property. No point may exceed 30 feet.
8. A representative of Councilman Michael Woo spoke in support of the ZAI.
- a. The problem is with the way the Building and Safety Department interprets grade. Interpretation of grade involves natural grade and restored grade and often is measured after the lot has been graded. At that time, it is very difficult to determine what might have been the natural grade.
  - b. Developers figure it is a risk they can afford to take when they build overheight buildings. They continue to build until they are absolutely stopped by the Department of Building and Safety. Two such projects currently exist in Council District No. 13.
  - c. The community and the builders need a clarification of the Code.
9. The Board deliberated as follows:
- a. Mr. Lamaute stated that the appeal should be denied.
    - (1) The appellant is right in one aspect, namely, that the Zoning Administrator is trying to compensate for something that is missing from the Code.
    - (2) However, the Board and Administrator have a right and a responsibility to interpret the Code. Many cases require an interpretation of the Code.
    - (3) The ZAI benefits the City as a whole and is not just to allow developers to take advantage of what is written in the Code.
  - b. Mr. Patsaouras concurred.
  - c. Mrs. Olansky concurred and stated that:



- (1) The Code is one big contradiction. The laws are written by committees and are ambiguous because they attempt to please everyone.
  - (2) Each week this Board tries to evaluate the intent of the Code.
  - (3) The Board must rely on practice and history in making its interpretations.
  - (4) It would be a terrible error to reinterpret the Code as the protestant is requesting.
- d. Mr. Leewong stated that he supported the appeal.
- (1) The Code is clear. There is no need for interpretation, as the protestant has stated.
  - (2) The law may be wrong, but it is the law.
  - (3) If it is wrong, correct it.
  - (4) The Code should not be modified by interpretations which are not a part of the Code.
  - (5) The ZAI corrects the Code; it does not interpret an ambiguity in the Code.

FINDINGS:

1. Zoning Administrator Interpretation. Pursuant to Municipal Code Section 12.31, the Board sustained the findings of the Zoning Administrator.
2. The Board arrived at its determination based upon its review of available records and evidence contained in the subject and related files and upon testimony and evidence provided at the Board's hearing on the subject matter.

APPEAL RIGHTS:

No appeal. The Board of Zoning Appeals' action in this matter is effective upon the mailing of this report. It is not further appealable to the City Council.

# CITY OF LOS ANGELES

CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JACK BAUER  
CHARLES V. CADWALLADER  
ARTHUR DVORIN



SAMUEL WM. YORTY  
MAYOR

DEPARTMENT OF  
CITY PLANNING

OFFICE OF  
ZONING ADMINISTRATION

361 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

August 13, 1962

1465  
Joseph Piotrowski  
876 North West Knoll Drive  
Los Angeles 69, California

Re: L. A. I. CASE NO. 1846-A  
Appeal of Joseph Piotrowski  
from Building Department  
Action on Permit LA 1821-62  
at 883 N. La Cienega Blvd.

John C. Manning  
Superintendent of Building  
Department of Building and Safety  
Room 211, City Hall

Gentlemen:

In the matter of the appeal of Joseph Piotrowski from the action of the Department of Building and Safety in neglecting to enforce provisions of Section 18.21-A, 6 of the Municipal Code as he believes such regulations would apply to requirement of a 5 ft. in height masonry wall separating the automobile parking lot in connection with a restaurant in the C2 Zone at 883 North La Cienega Boulevard from the adjoining "R" zoned property to the west in unincorporated County territory, and also the reflection of lights from the parking area toward said "R" zoned property (Building Permit LA 1821-62), please be advised that the Chief Zoning Administrator has dismissed the appeal since the appellant who resides and owns property in unincorporated County territory is not a "person aggrieved" with respect to administration and enforcement of zoning regulations within the City of Los Angeles and hence the appeal is not properly before the Administrator, and has corollarily affirmed the action of the Department of Building and Safety in its enforcement of the City zoning regulations with respect to "R" zoned property in contiguous unincorporated County territory.

This particular appeal and the issues involved raise some legal questions with respect to interpretation of certain provisions of the Los Angeles City Comprehensive Zoning Regulations on property within the City which immediately adjoined zoned property in unincorporated County territory or in an adjoining incorporated city. Also as to whether an owner of property outside of the City of Los Angeles but adjoining or near the City Boundary Line could be considered "a person aggrieved" and thus be a proper appellant to the Zoning Administrator from decisions and determinations made by the Building Department involving adjoining property within the City of Los Angeles. It was necessary to



seek the advice and opinion of the City Attorney with respect to these legal questions. We are now in receipt of the official opinion of the City Attorney dated August 3, 1962, which clearly holds, first, that the established zoning on a lot in unincorporated County territory or in an adjoining incorporated city and which lot adjoins or is adjacent to property within the City of Los Angeles would have no effect upon the application of the City zoning regulations to the property in the City when the City's regulations vary depending upon the zoning classification of adjoining or adjacent property; and secondly, that the owner of property outside of the City of Los Angeles but adjoining or near the City Boundary Line, could not be considered as a "person aggrieved" and thus be a proper appellant to the Zoning Administrator from decisions and determinations made by the Department of Building and Safety or to the Board of Zoning Appeals from decisions and determinations made by a City Zoning Administrator involving adjoining property within the City of Los Angeles. In view of this opinion the Chief Zoning Administrator must hold that the subject appeal is not properly before this office since the appellant is not "a person aggrieved". Furthermore, that even if the appeal were properly before this office, the action of the Department of Building and Safety in the particular instance must be affirmed since said Department would have no lawful right to require the installation of a 5 ft. in height masonry wall to separate the subject parking area within the City of Los Angeles from the adjoining "R" zoned property within unincorporated County territory.

Very truly yours,

**EMER K. SMITZ**  
Chief Zoning Administrator

HES:at

cc: Mr. D. Woodward  
Chief Investigator  
Investigations Division  
Room 1605, City Hall

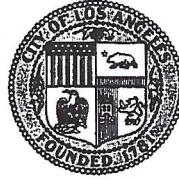
Mr. R. Mutch  
Department of Building and Safety  
Room 223, City Hall



CITY OF LOS ANGELES  
CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS  
JACK BAUER  
CHARLES V. CADWALLADER  
ARTHUR DVORIN



SAMUEL WM. YORTY  
MAYOR

DEPARTMENT OF  
CITY PLANNING  
OFFICE OF  
ZONING ADMINISTRATION

400 CITY HALL  
LOS ANGELES 12  
MADISON 4-5211

September 6, 1963

HWS  
J. F. Mc Adam  
Mc Adam Construction Company  
18331 Parthenia Street  
Northridge, California

Re: Z. A. I. Case No. 2037  
Emergency Exit Walk across  
R3 zoned lot to Malden St.  
Easterly of 8540 Reseda Blvd

Dear Mr. Mc Adam:

I have your communication of September 4, 1963, concerning the problem of providing a required second means of exit from the proposed school site which involves property in the C2 and F1 Zones at 8540 Reseda Boulevard. You inquire about the possibility of permitting a 4 ft. in width exit walk across the southerly portion of Lot 2, Tract No. 23684 to reach the bulb terminus of Malden Street.

Original interpretations of the zoning regulations are the first responsibility of the Department of Building and Safety. I presume that officials of that Department have already given you the answer, but I will affirm their answer with respect to your inquiry. The involved Lot 2 at the westerly terminus of Malden Street is classified in an R3 Zone. This zone only permits the use of the lot for single and multiple family dwellings and the usual accessories in connection therewith. A walk to provide emergency exit from the development on the adjacent C2 and F zoned sites could in no way be called an accessory use in connection with the multiple dwelling use of said Lot 2 and such a walk use would not be automatically permitted.

The owners or lessees of the property do have the right to file a formal application for zone variance and if such an application is presented it will be given thorough and proper consideration. Information on procedure concerning filing such an application may be obtained from our branch office in the Van Nuys City Hall. If such an application is presented, it might be helpful if it contained the approval of the immediately adjoining property owners on Malden Street and particularly the owner of the acreage piece westerly of Canby Avenue and southerly of Malden Street from which additional dedication will be required for completing these two streets, if and when the property is subdivided.

Very truly yours,

HUBER E. SMUTZ  
Chief Zoning Administrator

HES:jyt  
cc: Dept. of Bldg. & Safety  
cc: Branch Valley Office



CITY OF LOS ANGELES  
CALIFORNIA

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS  
JACK BAUER  
CHARLES V. CADWALLADER  
ARTHUR DVORIN



SAMUEL WM. YORTY  
MAYOR

DEPARTMENT OF  
CITY PLANNING  
OFFICE OF  
ZONING ADMINISTRATION

400 CITY HALL  
LOS ANGELES, CALIF. 90012  
MADISON 4-5211

January 9, 1964

Nick Mayo, President  
Valley Music Theatre, Inc.  
4419 Van Nuys Boulevard  
Sherman Oaks, California

Board of Building and  
Safety Commissioners  
Room 212, City Hall

Re: Z. A. I. CASE NO. 2076-A  
Appeal of Valley Music Theatre,  
Inc. from Board of Building and  
Safety Commissioners' action  
under Board File No. 634092.  
Mass Parking, 20600 Ventura Blvd.

Greetings:

In the matter of the appeal of Nick Mayo, President, Valley Music Theatre, Inc., from the action taken December 18, 1963 of the Board of Building and Safety Commissioners approving the staff report and denying the corporation's request for approval of a mass-type parking arrangement for 563 required parking spaces in connection with its proposed theatre development in the Woodland Hills area and which mass parking arrangement indicates in some instances as many as 20 automobiles parked in single-file and flanked by similar files of automobiles and under control of attendants instead of the two-car tandem type parking which has been the maximum permitted under the Building Department's interpretive rule where required parking is supervised by attendants as provided by the exception in Sec. 12.21-A, 4(h) of the Municipal Code, and also with said parking spaces arranged on 10% cross and longitudinal slopes in lieu of the 5% maximum slope established by Building Bureau Bulletin No. 1062, please be advised that the Chief Zoning Administrator has made the following finding of facts and determination affirming the action of the Board of Building and Safety Commissioners in disapproving any modification of the Department's ruling for a maximum 5% crossed slope in any direction for a required parking space and affirming the ruling as generally applied which limits tandem parking to not more than two automobiles and thus essentially denying the appeal, but has reversed the implied ruling of said Board which would prevent its approval of a mass-tandem parking type arrangement under a specific set of circumstances similar to those here presented involving a one-performance type legitimate theatre or church, or perhaps a one-shift type industry where those attending the performance or church services, or the employees at the industry all arrive at



approximately the same time and all endeavor to leave at approximately the same time, and provided covenants and agreements are recorded to confine the use of the involved building to that represented as long as the mass parking type arrangement is utilized instead of the conventional type parking arrangement.

#### FINDING OF FACTS AND DETERMINATION

After thorough consideration of the statements set forth in the supplement to the Notice of Appeal, the report to and action of the Board of Building and Safety Commissioners under its File 634092, Building Department's Bulletin No. 1062, the report of the City Planning Associate, the communication of December 31, 1961 from Attorney Richard S. Volpert representing the appellants, and the proceedings under City Plan Case No. 12781 involving the impending change of zone of the site proposed for the theatre project here directly in question, as well as discussion of the basic issues and interpretation of the ordinance provisions with technicians who prepared the amended regulations here in question and those who are responsible for the administration and enforcement thereof, and long-time personal experience and difficulty in utilizing various types of public parking facilities, I find as follows:

1. The issue here involved essentially centers around the interpretations which the Department of Building and Safety has placed upon the provisions of the second paragraph of Sec. 12.21-A, (h) which is part of the offstreet automobile parking requirements and regulations of the Comprehensive Zoning Ordinance, and which reads as follows:

"Each required parking space within a garage or parking area shall be individually and easily accessible, except that automobiles may be parked in tandem wherever the parking is provided in a public garage or public parking area as hereinafter authorized and wherever the parking is to be supervised by an attendant at all times when the building or use which the parking is to serve is in active operation."

It will be noted that one of the important provisions of this paragraph is that each required parking space shall be individually and easily accessible. There then follows an exception permitting automobiles to be parked in tandem in a public garage or a public parking area and wherever the parking is to be supervised by an attendant at all times the building or use is in active operation. There is no definition of the word "tandem" in the zoning regulations and hence, it must be interpreted in its general usage or as defined in the Webster International Dictionary. The dictionary definitions can be read two ways as applied to "tandem" when used as an adverb as in



the subject regulation, i.e. "Two arranged, one behind the other", or "A group of two or more arranged or following one behind the other". Even though "tandem" could be interpreted liberally to include unlimited stack-type parking when an attendant is present at all times, it is apparent from a careful reading of all of Sec. 12.21-A, 4 of the Code that the City Council intended the exception to apply only when the tandem parking arrangement and the number of attendants to supervise the parking at a particular place were adequate for the required parking area to serve its intended purpose. Even the greatest number of parking attendants would be useless to provide the mobility required in the ordinary cases if "tandem" were interpreted to have no limitation. Therefore, it is reasonable to assume in order for attendants to be effective that some limitation on tandem parking is implicit in the ordinance.

2. The Department of Building and Safety is charged with the responsibility for administration and enforcement of the zoning regulations and hence, with initial interpretations thereof. In our opinion, it has properly interpreted the subject regulation as requiring each parking space to not only be individually accessible but easily accessible and that the exemption with respect to tandem parking applies essentially to the term "individually accessible" and not to the term "easily accessible". It has long followed the interpretive rule that even in a public parking lot supervised by an attendant, any required parking placed in tandem to be easily accessible shall be not more than two cars deep. This is so that the attendant would not have to move more than one car in order to permit the driver to reach his automobile parked to the rear. With this interpretation, we fully agree when applied to the great majority of public parking areas where the automobiles are coming and going at all hours. There are a few unique types of uses, however, where those utilizing the parking facilities all come at approximately the same time and all endeavor to leave at approximately the same time, such as a legitimate theatre having only one performance in an afternoon or evening, and where there would be practically no occasion for a driver to want his car and leave the parking area until everyone was endeavoring to leave, and where the Department of Building and Safety or its Board of Commissioners in the exercise of sound discretion could apply the more liberal definition of "tandem" and approve a parking plan with more than two cars parked one behind the other. The exercise of such discretion, however, would have to be carefully and meticulously exercised with some limit on the maximum number of stacked cars, scrutiny of the drive-ways and traffic flow controls, and with recorded covenants



and agreements to safeguard against the originally represented use of the particular building being changed to a different type of use or operation which would necessitate the more easily accessible parking spaces than available in the stack-type mass parking which might apply to only a legitimate theatre type of operation. (Many originally intended legitimate theatres have been unsuccessful and have changed over to motion picture theatres with continuous performances or other purposes where patrons come and go throughout the day or evening. Likewise, many churches which originally intended to have only one service have had to resort to two services on Sunday mornings or on special occasions such as Easter.)

3. The Department of Building and Safety in connection with its responsibility for administration and enforcement of the zoning regulations as well as its responsibility for safety under other provisions of the Code, has determined that to be "easily accessible and safe" that required automobile parking spaces and driveways providing access thereto shall conform with certain maximum grades and cross slopes as set forth in Departmental Bulletin No. 1062. This Bulletin among other things, requires that the maximum slope of a required parking space in any direction shall not exceed 5%. The interpretive rules promulgated in said Bulletin were arrived at only after thorough research of the results of different parking lot layouts and the inaccessibility or hazard of having greater cross slopes or grades. The regulations have been enforced by the Department for many years. We can find no basis to quarrel with or disagree with the reasonableness of the regulations. It should be obvious that parking spaces having a greater cross slope than 5% in either a horizontal or transverse direction would be less accessible and could create a hazardous condition and particularly when cars are parked in tandem or stacked in a manner as proposed in the situation here under appeal. Cars parked on slopes exceeding 5% in either a horizontal or transverse direction could create hazards by gasoline dripping from the gasoline tanks which might be ignited by cigarette butts or other causes and when parked at greater angles in a horizontal type direction could be hazardous by loosely set brakes. Some standards have to be set to serve as a guide for those administering the regulations and to give effect to the intent of the provisions, and those which have been set appear reasonable. It would appear entirely unreasonable to permit the required parking spaces to have either horizontal or transverse slopes of approximately 10% as proposed in the appellant's project.



4. The arguments and statements presented in behalf of the appeal are all centered around the unique nature of the appellant's proposed Valley Music Theatre which, it is stated, will be a legitimate theatre with a unique traffic problem resulting from "the simultaneous arrival before showtime and the simultaneous departure at the close of these events" and with a specially devised scheme for handling the parking areas with a minimum of four attendants at each event. (It appears that said attendants will only direct traffic and could not maneuver cars to let some car get out.) It is here noted that the appellant in his presentation to the City Planning Commission for the impending change of zone for the theatre site (see City Plan Case 12781) represented the proposed development as a theatre-auditorium and stated as follows:

"This auditorium is designed for multiple purpose uses. We will present such entertainments aside from the musical season as symphony and 'pop' concerts, appearances by jazz artists, popular folk singers, individual concert artists, a vast variety of children's shows badly needed in the Valley, small circuses, straight dramatic presentations and possibly Shakespeare and other classic theatre. Also, we are planning a ballet season. Most important, it will also be available as the only facility of its kind in the entire Valley for such needs as conventions, industrial shows, large business meetings, luncheon meetings and banquets, art exhibitions and many other community activities." (Emphasis ours.)

It should be obvious that the zoning regulation and the administrative rules and interpretations thereunder must be applied uniformly and cannot be tailored to fit the unique problems of a particular use such as described in the appeal. Although we believe as stated in Finding No. 2 above, that the Department of Building and Safety or its Board in exercise of sound discretion could and should apply a more liberal definition of "tandem" in certain unique situations, we can see no correlation between the special type of use such as legitimate theatre and the matter of spaces permitted in the parking areas. In view of the above stated proposed multiple use of the theatre-auditorium under discussion, we doubt that even in the particular instance relaxation of the two-car definition of "tandem" would be justifiable unless a dual-type of parking arrangement could be devised where the theatre would be utilized to its maximum-type capacity with mass parking only for one-performance type events and with another parking layout of an individual-accessibility type (or two-car



tandem-attendant type parking) which could be utilized for other type events with the capacity of the auditorium limited during such other events to not more than five times the number of individually accessible parking spaces available in the parking area. Unless such an arrangement could be devised, it is obvious that an onstreet parking problem would result and the intent of the regulations be negated since the mass stack-type parking could only function properly in connection with a single-performance type operation. It obviously would not work in connection with conventions, industrial shows, art exhibits and most luncheon and banquet-type meetings, since patrons come and leave at different times.

The Chief Zoning Administrator does not here intend to infer that the mass stacked parking shown on the plans accompanying the appeal, even if the use is confined to a legitimate theatre of one-performance type operation and with 5% cross slopes, would be proper under a liberal interpretation of the term "tandem" in the subject regulation, but as stated in Finding No. 2 believes that the Department of Building and Safety could give consideration to some arrangement of parking with more than two cars parked in tandem under special controls, conditions and recorded agreements. While not a question raised in the appeal and although within the ruling under Bulletin No. 1062, we would question the desirability of permitting a 20% grade for the driveways serving a mass-type parking arrangement such as here proposed and particularly where these ingress and egress driveways lead into a heavily traveled major boulevard such as Ventura Boulevard.

Therefore, by virtue of authority contained in Section 98 of the City Charter and Section 12.27-A of the Municipal Code, it is hereby determined that the Board of Building and Safety Commissioners did not err in its action of December 18, 1963 under Board File 634092 in denying the appellant's request in connection with the proposed Valley Music Theatre to:

1. Permit use of mass-type parking for 563 required parking spaces in lieu of two-car tandem parking under the plan presented;
2. To allow parking spaces on 10% cross and longitudinal slopes in lieu of 5% maximum slopes in any direction as specified in the Building Bureau Bulletin No. 1062;

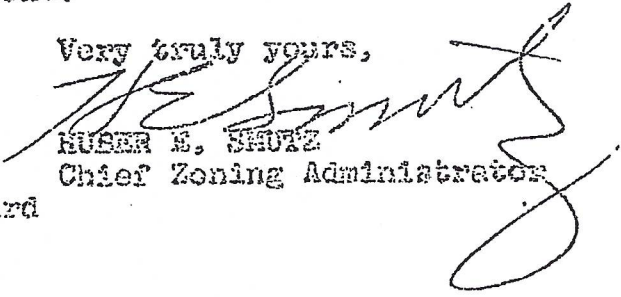
and its action under the particular circumstances is affirmed and the appeal in those respects denied. However, the Board did abuse



its discretion and erred in its implied ruling sustaining the Department's interpretive rule that the word "tandem" had to be limited to the parking of not more than two cars deep in applying the provisions of the second paragraph of Section 12.21-A, 4(h) of the Municipal Code to all attendant-type parking facilities. On the contrary, the Board should reserve to itself the right to apply the more liberal definition of "tandem" in connection with a unique type of use such as discussed above in the findings and to approve a plan for tandem parking for a group of two or more automobiles in single file where the use of the particular facility is confined to one where those using the parking facilities all come at approximately the same time and all endeavor to leave at approximately the same time, such as a one-performance type legitimate theatre or church or perhaps a one-shift type industry and where covenants and agreements running with the land are recorded to safeguard against the originally represented use being changed to a different type of use or operation which would necessitate the more easily accessible parking spaces, or the Board should promulgate a set of standards and guides which would permit its staff to approve a parking plan for such a unique type of use. The Board's action is therefore reversed with respect to the implied ruling discussed immediately above and in the particular instance here in question it is determined that the Board has the power, if it sees fit to exercise it in this case, to give further consideration to and approve some revised plan for mass-type parking for the proposed Valley Music Theatre and within the limitations, reservations and recorded agreements herein discussed.

It is here noted that there is currently no authority to issue a building permit for the proposed theatre even if the parking met all of the ordinance requirements since the impending change of zone has not as yet been effected by required ordinance. The property is still in the RA Zone.

Very truly yours,

  
HUBERT E. SHUTZ  
Chief Zoning Administrator

HES:es

cc: Councilman Thos. D. Shepard  
Room 30, City Hall

Richard S. Volpert  
c/o O'Melveny and Myers  
433 South Spring St.  
Los Angeles 13



R E P O R T

Z.A.I.CASE NO. 2076-A

APPLICANT:

Nick Mayo, President  
Valley Music Theatre, Inc.

LOCATION:

20600 Ventura Boulevard

SUBJECT:

Appeal from an interpretation of the Building and Safety relative to the slope permitted on parking lots and the application of the tandem parking provisions of the zoning ordinance.

FINDINGS:

The applicant is in the process of designing a theatre in the round with accessory parking area to be developed in a semi-hillside area in the Woodland Hills District. In developing the parking around the proposed theatre, the applicant has arranged a tandem parking layout up to some eleven (11) cars deep relying on the provisions of the zoning ordinance which states that parking may be provided in tandem when such parking is under the supervision of a parking lot attendant. The Department of Building and Safety, however, has refused to accept the parking arrangement stating that their policy of long standing restricts the use of tandem parking to an arrangement where not more than one car need be removed to permit the removal of any car in the parking arrangement. The applicant in conversation with the investigator has questioned this most strict application of the word tandem in a manner that equates all parking areas regardless of the type of use they are intended to serve. The applicant argued that such uses as a legitimate theatre where virtually the entire attendance arrives at essentially the same time and departs at the same time, a tandem arrangement as proposed would represent a reasonable interpretation of the ordinance and that the application of the most severe interpretation is unreasonable.

The applicant, in justifying an interpretation, states that such a parking arrangement better facilitates traffic control by parking lot attendants.

A second portion of the appeal involves a Department of Building and Safety bulletin which establishes the maximum slope permitted in a parking area at 5 per cent. The applicant in this portion of his appeal has relied upon a statement of conditions applicable to the particular property he is developing. He has related the request to particular problems inherent in the site which incidentally is quite hilly and has made virtually no



showing of the unreasonableness of the 5 per cent maximum slope as it might be applied generally. The Building Department's ruling limits the slope to 5 per cent in any direction and the applicant argues that the slopes of 10 per cent which he proposes to use are in a transverse direction to the parking arrangement and thus creates no hazard. The whole problem of slopes and parking area is strictly a matter of determining what is reasonable and safe regardless of the type of use or condition existing upon a particular site. The precise gradient of parking lots which gradient might be considered safe or hazardous is of course subject to discussion, however, investigator feels that the applicant's opinion in this regard is greatly colored by the particular development problems which he faces in the development of his property. Certainly a 5 per cent grade in a parking lot is safer for the users than a 10 per cent grade and the applicant apparently has been unable to put forth any real facts which would tend to indicate that the 5 per cent grade was unreasonably conservative and that a 10 per cent grade would represent more reasonable standard for parking lots.

#### CONCLUSION:

The matter of tandem parking would seem to the investigator an area in which some latitude in the interpretation might be reasonable when applied to different uses rather than the application of an arbitrary 2-car deep ruling which has been followed by the Building Department. Such a ruling, however, should be carefully considered so as to affect a usable parking arrangement as it relates to various uses. The question of mass tandem parking in connection with a use such as legitimate theatre would seem to represent one of those uses for which mass parking is most adaptable.

The question of slopes in parking areas would seem to have no correlation whatsoever with the type of use it is to serve. If any correlation existed at all between the parking slope and the use to be served, it would seem that a more conservative slope should be applied to those areas serving large numbers of cars. While not a point of question in the appeal, it was noted from the precise plan that the driveways serving the theatre have a maximum slope of 20 per cent. While it is recognized the Department of Building and Safety accepts a 20 per cent grade for parking access, the investigator would question the desirability of such a steep drive slope where such drive serves a large public parking area.

RWB:frp  
12-26-63

---

Roy W. Sundick  
City Planning Associate



R. A. RUDSER

*Letter*

February 18, 1965

Mrs. Vera-May Lewis  
169 South Hayworth Avenue  
Los Angeles, California 90048

Re: Z.A.I. CASE NO. 2243  
Public alley may not  
serve as required  
passageway

Dear Madam:

I have your communication of February 15, 1965 requesting that we interpret the zoning regulations in such a manner that portions of a public alley along the side of a lot may serve as the passageway required by Section 12.21-C, 2 of the Comprehensive Zoning Regulations. Your communication is apparently prompted from your desire to remodel your home into a 2-family dwelling without removing the porte-cochere extending over the driveway which would otherwise serve as the required passageway to the proposed rear dwelling unit.

I must inform you that neither this Office nor any other office could make such an interpretation of the zoning regulations. The provisions of Section 12.21-C, 2 (b) and (c) are quite clear in this respect. You will note that Sub-Paragraph "b" to which you refer clearly states that the required 10 ft. passageway shall extend from a street to one entrance of each dwelling unit or guest room in every residential building, unless there is an entrance to the dwelling unit or guest room opening directly onto a public street or into a hallway opening onto a public street or onto a 10 ft. passageway extending to a public street. Furthermore, the last sentence of Paragraph 2 of said Sub-Section "b" clearly states that the passageway shall be located on the same lot as the building which it serves. These regulations were clearly and purposely designed, among other things, to prevent the social undesirability of so-called "alley dwellings" which have plagued and created much of the slum and substandard dwelling conditions found in many of the eastern cities.

I also call your attention to the provisions of Sub-Paragraph "e" of the involved section of the Ordinance which requires that the passageways "shall be open and unobstructed from ground to sky, except for the projections permitted by the provisions of Section 12.22-C." The exceptions referred to, while permitting some projection of eaves and balconies into a passageway, in no way permits a porte-cochere to extend over such a required passageway.

The zoning regulations provides the method by which applications



may be considered for modifications of the zoning regulations in unique or peculiar circumstances. Although we cannot advise you in advance what action might be taken, it would be possible for you to present the unique features of your particular situation in a formal application for variance from the area regulations (Yard Variance). To assist you in deciding whether you desire to submit an application, I am enclosing herewith the forms which would have to be utilized for that purpose and which I believe you will find are self-explanatory. Further information may be obtained at our Public Counter, Room 300, City Hall.

Very truly yours,

HUBER E. SMUTZ  
Chief Zoning Administrator

HES:lln

cc: Mayor Yerty's Office

Associate Zoning Administrators  
Branch Offices

Department of Building and Safety

Enclosure

# CITY OF LOS ANGELES

CALIFORNIA



SAM YORTY  
MAYOR

DEPARTMENT OF  
CITY PLANNING

OFFICE OF  
ZONING ADMINISTRATION

600 CITY HALL  
LOS ANGELES, CALIF. 90012  
MADISON 4-5211

HUBER E. SMUTZ  
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

CHARLES V. CADWALLADER  
ARTHUR DVORIN  
MANUS D. O'GRADY  
R. A. RUDSER

May 12, 1966

David Rapoport  
140 North Robertson Boulevard  
Beverly Hills, California

Department of Building and Safety

Walter Thiel, City Clerk

Greetings:

Re: Z. A. I. CASE NO. 2398  
Interpretation and Ruling  
Limited Storage Building  
for Retail Merchandise  
with Office and  
Correction of Wholesale  
Business Storage  
Limitations - C2 Zone

In the matter of the request of David Rapoport for an interpretation of the zoning regulations, please be advised that based upon the Findings hereinafter set forth and by virtue of authority contained in Section 12.21-A, 2 of the Municipal Code, the Chief Zoning Administrator hereby determines that use of commercial building in the C2 Zone for limited storage of retail merchandise with incidental office in connection with a retail store operation in the vicinity but not necessarily in the same building, and provided the floor area within the building used for storage does not exceed 4500 sq. ft., would be similar to and no more objectionable than the wholesale business which is permitted to have the same amount of incidental storage in the C2 Zone and should be permitted in said zone. Furthermore, it was noted that corrections in the adopted List of Uses concerning the permitted amount of storage in connection with a wholesale business in the C2 Zone had not been made to reflect a more liberalizing Ordinance amendment to the Code. Therefore, the List of Uses Permitted in Various Zones adopted under Z. A. I. Case No. 1350 is amended by inserting in its proper alphabetical order among the uses permitted in the C2 Zone, the following:

"Storage Building For Retail Merchandise With Office  
(Maximum 4500 sq. ft. of Space Used for Storage)",

and by substituting for the term "Wholesale Business" with its limitation also appearing in the C2 Zone List, the following:

"Wholesale Business (Incidental Indoor and Open Storage  
Limited to 4500 sq. ft. of Space - also see Open Storage Area)".



FINDINGS

The request communication only concerns the proposal of a retail store on Hollywood Boulevard to utilize an abandoned Safeway Store at 1912 Wilcox Avenue for its offices and for storage of additional retail merchandise to supplement and replace stock stored on the retail store premises. This same question has been raised and not resolved in connection with use of some other commercial buildings in the C2 Zone for limited storage and whether such use would fall within the category of "Storage Building or Warehouse" which under Section 12.17.1-A is listed as first permissible in a CM Zone. C2 Zone does permit many wholesale businesses with incidental storage of merchandise, but if the total area of all space used for storage on the premises in connection therewith does not exceed 4500 sq. ft.. This permitted incidental storage could all be within a building or a limited amount could be in the open under the limitations specified for open storage in the C2 Zone. A retail store or business of the type permitted in the C2 Zone is not limited as to the amount of space used for incidental storage of its retail merchandise on the same premises from which the merchandise is sold. Some large retail stores maintain separate warehouse buildings in the Industrial Zone where a large stock of merchandise is stored to replace stock in the retail store from which deliveries are made to customers, particularly that of furniture or large appliances. Some of the smaller retail stores with limited storage space on their premises find it desirable and necessary to obtain another building near the retail outlet for the storage of limited amounts of replacement stock. Such a building with no more storage space than would be permitted for a wholesale business in the C2 Zone could hardly be classified as a storage building or warehouse such as the Zoning Ordinance relegates to the CM or less restrictive zone, and if an office is maintained in connection therewith, would be no more objectionable than operation of a wholesale business with the same limited amount of storage.

At the time the Official List of Uses Permitted in Various Zones was adopted, it reflected the then limitation in the Ordinance of a maximum of 1500 sq. ft. of floor area for storage in connection with a wholesale business in the C2 Zone. Since that time, an Ordinance amendment has liberalized the amount of incidental storage in connection with the wholesale business to a maximum of 4500 sq. ft. Hence, the above correction of the List of Uses to reflect this amendment.

Very truly yours,

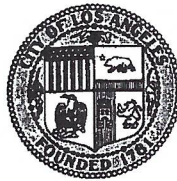
HUBER E. SMUTZ  
Chief Zoning Administrator

HES:jt

CITY OF LOS ANGELES  
CALIFORNIA

THOMAS W. GOLDEN  
CHIEF ZONING ADMINISTRATOR  
ASSOCIATE ZONING ADMINISTRATOR  
ROY W. BUNDICK

CHARLES V. CADWALLADER  
LOUIS J. MUTO  
FABIAN ROMANO  
TOM STEMNOCK  
ARDEN STEVENS  
ROBERT D. WILSON



TOM BRADLEY  
MAYOR

OFFICE OF  
ZONING ADMINISTRATION

DEPARTMENT OF  
CITY PLANNING

600 CITY HALL  
LOS ANGELES, CALIF. 90012  
465-3851

May 16, 1980

Isthmus Landowners Association  
c/o Clifford Rome  
2020 Avenue of the Stars, Ste. 550  
Los Angeles, CA 90067

Department of Building and Safety

Re: CASE NO. ZAI 80-007  
PROPER APPLICATION OF  
REAR YARD SETBACK  
REGULATIONS TO A GROUP  
OF LOTS AFFECTED BY  
COMMON PROBLEMS WITHIN  
SILVER STRAND AND DEL REY  
BEACH SUBDIVISIONS,  
LOCATED WESTERLY OF  
VIA DOLCE  
Venice District  
Zones R1-1 and RW1-1  
D.M. 102-149, 102-147,  
100.5 - 149  
C.D.-No.-6  
EIR: Exempt

In the matter of the application of Isthmus Landowners Association, c/o Clifford Rome, for determination of a proper application of the rear yard setback requirements in a group of lots within the Silver Strand and Del Rey Beach Subdivisions, which front on the Ballona Lagoon and local streets and are characterized by relatively shallow-depth lots, please be advised that based upon the findings of fact hereinafter set forth and by virtue of authority contained in the Municipal Code, the Associate Zoning Administrator hereby determines the following 0-ft. rear yard setbacks on the hereinafter-designated lots within the Silver Strand and Del Rey Beach Subdivisions:

- (1) Two-hundred-fifteen lots in the R1-1 Zone, located between Delfino Canal (in an alignment approximately 50 ft. southerly of Jib Street, extended) and Westwind Street, also, between the first tier of lots easterly from Ballona Lagoon and a line generally westerly of Via Dolce and its extension southerly to Westwind Street.
- (2) Nine lots in the RW1-1 Zone identified as Lots 1-9, inclusive, Block 7, more particularly described as those northerly from Delfino Canal, earlier described and westerly from Via Dolce, both the 215-lot and nine-lot assemblage located on Exhibit "A", attached to the file.



You are hereby advised that the above interpretation is not a permit or license and any permits or licenses required by law must be obtained from the proper public agency. Further, the above interpretation is only from the rear yard setback requirements and no consideration was given to any other yard or area regulations. It is assumed that all other use and area regulations of the Municipal Code will be complied with unless a deviation is approved by the filing of a proper variance application. The Zoning Administrator's determination in this matter will become effective after June 2, 1980 unless an appeal therefrom is filed with the Board of Zoning Appeals. Any appeal must be filed on the prescribed forms, accompanied by the required fee and received and receipted at a Public Office of the Department of City Planning on or before the above date or the appeal will not be accepted.

#### FINDINGS OF FACT

After thorough consideration of the statements and plans contained in the application, consultation with Mr. Don Whatley, project designer, as well as personal knowledge of the property and surrounding area and a review of the Coastal Development Permit issued on December 14, 1977 for the total project, I find as follows:

1. Ownerships involving 275 recorded lots were united into a single development endeavor. These, in addition to the subject property, involve a tier of lots abutting the easterly side of Ballona Lagoon and extending southerly from Delfino Canal. The 215-lot package comprises individual parcels 35 ft. by 90 ft. which front on 40-ft. dedicated streets. In order to improve on-street parking capabilities and to generally improve vehicular traffic circulation, the rear 15-ft. wide dedicated courts are to be opened and widened to 30 ft. This will encourage "tucked" parking and side yard parking for three vehicles per lot with access via the expanded court. It will also enable motorists to treat each former one-half block as a whole block and be able to drive completely around it. As a trade-off, the reduced lot becomes a problem for development. The 0-ft. rear setback is reasonable. The nine lots in the RW1-1 Zone are similarly beset. The California Coastal Commission in its 1977 action decreed that a 40-ft. buffer strip be set aside from each lot abutting the Ballona Lagoon. This condition was applied to preserve the bank and the lagoon itself. This greatly reduces the buildable area of the aforementioned nine lots. A 0-ft. rear setback adjoining Delfino Canal is in order. By allowing credit for these deficiencies the 0-ft. rear yard ruling should enhance the usability of the 224 lots involved.
2. In view of the foregoing, it is determined that the herein-authorized rear yard setbacks conform with the purpose and intent of the zoning regulations and are in the best interests of the public health, safety and welfare.

*Arden E. Stevens*

ARDEN E. STEVENS  
Associate Zoning Administrator

AES:mlw

cc: Director of Planning  
County Assessor  
Councilwoman Pat Russell  
Sixth District

9129C/0107A



CITY OF LOS ANGELES

CALIFORNIA



TOM BRADLEY  
MAYOR

OFFICE OF  
ZONING ADMINISTRATION

DEPARTMENT OF  
CITY PLANNING

600 CITY HALL  
LOS ANGELES, CALIF. 90012  
485-3851

THOMAS W. GOLDEN  
CHIEF ZONING ADMINISTRATOR  
ASSOCIATE ZONING ADMINISTRATOR  
ROY W. BUNDICK  
CHARLES V. CADWALLADER  
LOUIS J. MUTO  
FABIAN ROMANO  
ARJEN STEVENS  
ROBERT D. WILSON

December 12, 1980

Frank O. Gehry and Associates, Inc.  
1524 Cloverfield Boulevard  
Santa Monica, CA 90404

Department of Building and Safety

Re: CASE NO. ZAI 80-141-A  
APPEAL OF FRANK O. GEHRY  
AND ASSOCIATES, INC. FROM  
A DETERMINATION OF  
DEPARTMENT OF BUILDING AND  
SAFETY PLAN CHECK  
NO. BB 1767  
600 East Rustic Road  
Pacific Palisades District  
Zone RE15-1  
D.M. 7202

In the matter of the appeal of Frank O. Gehry and Associates, Inc. from the interpretation made by the Department of Building and Safety relative to the substantial connection provisions of Section 12.21(c)1, wherein the Department of Building and Safety required two portions of a dwelling to be interconnected with a 5-ft.-wide enclosed hallway as opposed to permitting a roof connection only, please be advised that the Associate Zoning Administrator, based upon the findings of fact hereinafter set forth and by virtue of authority contained in Section 98 of the City Charter and Section 12.27(a) of the Municipal Code, hereby determines that the Department of Building and Safety did not err or abuse its discretion in requiring the two portions of the dwelling to be interconnected with an enclosed hallway as a condition issuing a building permit for the proposed one-family dwelling and detached two-car garage on a lot in the RE15-1 Zone. The action of the Department of Building and Safety is affirmed and the appeal is denied.

FINDINGS OF FACT

After thorough consideration of the statements set forth in the notice of appeal, the report of the Chief of the building bureau of the Department of Building and Safety and a thorough review of the provisions of Sections 12.03, 12.07.01 and 12.21 of the Municipal Code, which are directly involved in the matter issue, I find as follows:

1. The Department of Building and Safety has issued a building permit for the construction of a dwelling unit which is composed essentially of two buildings connected with a 5-ft.-wide enclosed hallway. One portion of the building contains a 14- by 24-ft. bathroom on the first floor and a master bedroom on the second floor. The other portion of the building contains a kitchen and an enclosed patio.

The appellant contends that the requirement of connecting the two separate units by an enclosed hallway exceeds the provisions of Section 12.21(c)1 inasmuch as the provision states "every main building shall be located and maintained on a lot as defined in this article and all parts of such building shall be connected in a substantial manner by common walls or a continuous roof. There may not be more than one such building on a lot in the RA, RE, RS, R1 or RW1 Zones". The appellant contends that there is only one such main building on a lot, since the two portions of the dwelling are attached by a common roof.



The complete requirements for a dwelling must be determined by reference to both the Building and Zoning Codes. A one-family dwelling, as defined in the Zoning Code, is a detached dwelling containing one dwelling unit. A dwelling unit is defined as a group of two or more rooms, one of which is a kitchen, designed for occupancy by one family for living and sleeping purposes. As can be seen, the Zoning Code does not specifically require a bathroom, however, the provisions of Division 49 of the Building Code does require each dwelling unit to contain a bathroom consisting of a bathtub or shower, together with a toilet and a lavatory. A guest room, as defined in the Zoning Code, is any habitable room, except a kitchen, designed or used for occupancy by one or more persons and not in a dwelling unit.

The portion of the proposed construction consisting of the bathroom and bedroom meets the definition of a guest room. However, a guest room as a separate entity is a use first permitted in the R3 Zone. The guest room does not lose its identity until it is integrated into the dwelling unit. To accomplish this integration the guest room must be in the dwelling unit and not just in the same building. Separate dwelling units and guest rooms commonly share the same roof, but maintain separate entities, apartment houses and apartment hotels are examples of this. Clearly, then the necessary integration of the proposed dwelling into a single-family dwelling requires something more than a common roof.

The hallway required by the Department of Building and Safety would seem to provide the minimum necessary for this integration.

The Administrator concurs with the Department of Building and Safety that the two portions of the proposed dwelling must be provided with an enclosed internal connecting hall system, if the proposed building is to be considered a permitted use in the RE Zone.

Therefore, by virtue of authority contained in Section 98 of the City Charter and Section 12.27(a) of the Municipal Code and in view of the various considerations outlined above, the Associate Administrator hereby determines that the Department of Building and Safety did not err in its interpretation of the involved section of the Planning and Zoning Code and the appeal is therefore denied. The Associate Administrator's determination in this matter will become effective after December 29, 1980 unless an appeal therefrom is filed with the Board of Zoning Appeals. Any appeal must be filed on the prescribed form, accompanied by the required fee and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted.



ROY W. BUNDICK  
Associate Zoning Administrator

RWB:mlw:sb

cc: Director of Planning  
County Assessor  
Councilman Robert Ronka  
First District

2737D/0173A

WARREN M. CAMPBELL  
ACTING CHAIRMAN  
MICHAEL A. NOGUEIRA

MEMBER  
SI UN PARK

MEMBER  
NIKOLAS PATSAOURAS  
MEMBER

MEMBER  
MARY SANDBERG  
MEMBER

GILBERT R. CALDWELL  
SECRETARY

**CITY OF LOS ANGELES**  
CALIFORNIA



TOM BRADLEY  
MAYOR

May 20, 1981

DEPARTMENT OF  
CITY PLANNING  
CALVIN S. HAMILTON  
DIRECTOR

BOARD OF  
ZONING APPEALS  
ROOM 561, CITY HALL  
LOS ANGELES 90012  
485-3505

Frank O. Gehry & Assoc., Inc.  
Paul Lubowicki  
1524 Cloverfield Boulevard  
Santa Monica, CA 90404

Angela R. Pickett  
Attorney at Law  
3205 Los Feliz Boulevard  
Los Angeles, CA 90039

Calvin S. Hamilton  
Director of Planning

Thomas W. Golden  
Chief Zoning Administrator

Department of Building and Safety

Greetings:

The Board of Zoning Appeals on April 21, 1981, conducted a public hearing on the matter of an appeal from the entire determination of the Associate Zoning Administrator in denying an appeal which resulted in the affirming of an action by the Department of Building and Safety requiring two portions of a dwelling to be interconnected with a five-foot wide enclosed hallway instead of permitting only a roof connection.

INTERPRETATION AND RULING

After thorough consideration of all records and evidence previously introduced before the Associate Zoning Administrator, including his findings and determination dated December 12, 1980, the Board has determined that the Department of Building and Safety and the Associate Zoning Administrator erred in their previous determinations as applied to the case of issue.

In accordance with Sections 12.27-A,1 and 12.28-A,1(d) of the Municipal Code and Section 98 of the City Charter, the Board of Zoning Appeals on May 19, 1981, after reviewing a final consideration prepared by the Planning staff, granted the appeal and reversed the determination of the Associate Zoning Administrator as applied to the particular case at issue, based upon the following findings in support of its interpretation and ruling:



FINDINGS:

The Board carefully reviewed Section 12.21-C,1(c) of the Los Angeles Municipal Code which is restated as follows:

- (c) Every main building shall be located and maintained on a lot as defined in this Article and all parts of such building shall be connected in a substantial manner by common walls or a continuous roof. There may be not more than one such building on any lot in the RA, RE, RS, R1 or RW Zones.

From the language of the Code, the appellant argued that the word "or" permitted an alternative in connecting two portions of the building together, that is either by common walls or a continuous roof. The appellant desires to connect two portions of his proposed dwelling together by a continuous roof, whereas the Department of Building and Safety insisted that the two portions be connected by an enclosed hallway.

The Zoning Administrator argued that other provisions of the zoning regulations require an internal enclosure connection between the three basic required elements of a one-family dwelling. This requirement was quite aside from the provisions of Section 12.21-C,1(c) which had logical and reasonable application without an internal connection such as the connecting together of a garage and the remainder of the one-family dwelling. The Administrator further pointed out the possible abuses which could occur from a complete lack of internal continuity of a dwelling unit.

The Board, however, found that under rare situations similar to that involved in the case at issue, the intent and purpose of the regulations could be served without the necessity of a completely enclosed access to all portions of the dwelling unit. The Board also determined that the latitude offered by a roof connection only between the two portions of the dwelling unit in the particular case could produce beneficial effects by promoting certain architectural design choices, not otherwise available and also possibly contributing to the solution of unique topographical situations that could occur.


Therefore, by virtue of the authority contained in Section 12.28-A-1(d) of the Los Angeles Municipal Code and Section 98 of the City Charter, the Board of Zoning Appeals hereby determines that Section 12.21-C,1(c) shall be interpreted to permit two separate required elements of a one-family dwelling to be connected by either a 10-foot wide solid roof or four feet of common wall, both without an internal connection, when the following criteria are met:


1. Only one one-family dwelling is to be located on the site.

2. That neither of the two elements of the one-family dwelling to be so connected contain a full dwelling unit, i.e., a kitchen, bath and bedroom.

In compliance with the California Environmental Quality Act, the request is categorically exempt from the environmental review process under Article 7, Class 5 (11) of the Guidelines for the Implementation of the California Environmental Quality Act.

Very truly yours,

  
Warren M. Campbell  
Acting Chairman

  
Gilbert R. Caldwell  
Secretary

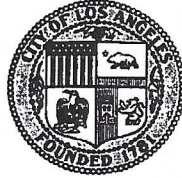
WMC:GRC:rc

cc: Councilman Marvin Braude



CITY OF LOS ANGELES

CALIFORNIA



TOM BRADLEY  
MAYOR

OFFICE OF  
ZONING ADMINISTRATION

DEPARTMENT OF  
CITY PLANNING

600 CITY HALL  
LOS ANGELES, CALIF. 90012  
485-3851

THOMAS W. GOLDEN  
CHIEF ZONING ADMINISTRATOR  
ASSOCIATE ZONING ADMINISTRATOR  
ROY W. BUNDICK  
CHARLES V. CADWALLADER  
LOUIS J. MUTO  
FABIAN ROMANO  
ARDEN STEVENS  
ROBERT D. WILSON

January 22, 1981

Honorable Board of Zoning Appeals  
City of Los Angeles  
Los Angeles, CA 90012

Re: CASE NOS. BZA 2858 AND  
ZAI 80-141-A  
SUPPLEMENTAL REPORT  
APPEAL OF FRANK O. GEHRY  
AND ASSOCIATES, INC. FROM  
A DETERMINATION OF THE  
ZONING ADMINISTRATOR IN  
SUSTAINING A RULING  
OF THE DEPARTMENT OF  
BUILDING AND SAFETY  
600 East Rustic Road  
Pacific Palisades District  
Zone RE 15-1  
D.M. 7202

On December 30, 1980, I sent you the files in connection with the appeal of Frank O. Gehry and Associates Inc., applicant, from the decision of the Zoning Administrator in denying an appeal from a ruling of the Department of Building and Safety requiring that two portions of the dwelling be interconnected by an enclosed hallway as opposed to a roof only connection, involving the construction of a proposed one-family dwelling.

Accompanying the appeal are copies of the report from the Department of Building and Safety supporting their interpretation of the Zoning Code, together with the determination of the Zoning Administrator in affirming the decision of the Department of Building and Safety and denying the appeal.

The appeal requested is one involving a basic interpretation of the Zoning and Building Codes relative to the construction of single-family dwellings. The interpretation of the regulations appealed is one which has been followed for over 25 years to the personal knowledge of the Administrator. To approve the appeal and allow various portions of dwelling units to be considered a single dwelling, when merely attached by a roof connection, would create great difficulties in administering zoning regulations as they apply to such uses as guest rooms, accessory living quarters, servants quarters and flexible units within apartment structures.

Under the appellant's proposed interpretation of the zoning regulations, it would be impossible to distinguish between bedrooms in a dwelling unit and guest rooms in a multiple dwelling, since the only integrating element would be a common roof.

I urge your honorable body to sustain the determination of the Zoning Administrator in his concurrence with the interpretation made by the Department of Building and Safety in this matter and deny the appeal.

ROY W. BUNDICK  
Associate Zoning Administrator

RWB:ed:vg

3371D/0115A

**CITY OF LOS ANGELES**  
CALIFORNIA



**TOM BRADLEY**  
MAYOR

**THOMAS W. GOLDEN**  
CHIEF ZONING ADMINISTRATOR

**ASSOCIATE ZONING ADMINISTRATORS**

**ROY W. BUNDICK**  
**CHARLES V. CADWALLADER**  
**JAMES J. CRISP**  
**WILLIE H. GERARD**  
**LOUIS J. MUTO**  
**JACK C. SEDWICK**  
**ARDEN E. STEVENS**

**DEPARTMENT OF**  
**CITY PLANNING**  
**CALVIN S. HAMILTON**  
DIRECTOR

**OFFICE OF**  
**ZONING ADMINISTRATION**

**ROOM 600 CITY HALL**  
**LOS ANGELES, CA 90012**  
**485-3851**

April 20, 1983

Isthmus Landowners Association, Inc.  
3907 Via Dolce  
Marina Del Rey, CA 90291

Department of Building and Safety

Re: **CASE NO. ZAI 82-281**  
**285 LOTS BETWEEN ROMA COURT**  
**AND WESTWIND MALL**  
**NORTHEASTERLY OF THE**  
**BALLONA LAGOON**  
Venice Planning Area  
Zones R1-1 and RW1-1  
D. M.'s 100.5-A-149,  
102-A-149 and 102-A-147  
C. D. No. 6  
EIR: Exempt

In the matter of the application of the Isthmus Landowners Association, Inc., for a Zoning Administrator's interpretation, please be advised that based upon the Findings of Fact hereinafter set forth and by virtue of the authority contained in Section 98 of the City Charter and Section 12.27-C of the Municipal Code, the Zoning Administrator hereby grants an interpretation to permit:

the construction, use and maintenance of over-in-height fences, walls and hedges in the required front yards of 226 lots in the R1-1 and RW1-1 Zones, with said fences, walls and hedges having a maximum height of 6 feet, in lieu of the 3 1/2-foot height permitted. Further, with said lots described as Lots 6 through 21 of Blocks 8 through 17; Lots 4 through 10 of Block 18; Lot 1 of Block 7; and, Lots 1 and 5 of Blocks 8 through 17 of the Silver Strand Tract; and, Lots 1, 5, 6 and 7 of Block 13; Lots 6 through 25 of Block 14; and Lots 6 through 13, 14, 16, 18, 20, 22 and 24 of Block 15 of the Del Rey Beach Tract,

and establish 0-foot rear yards for 59 RW1-1 zoned lots, in lieu of the 5 to 15 feet required, with said lots described as Lots 1 through 5 of Blocks 8 through 17 of the Silver Strand Tract; and, Lots 1 through 4 of Block 13 and Lots 1 through 5 of Block 15 of the Del Rey Beach Tract,

with the subject 285 lots located between Roma Court and the Westwind Mall northeasterly of the Ballona Lagoon in the Venice Planning Area,

upon the following terms and conditions:

1. That the use and development of the involved properties shall be in substantial conformance with the plot plans submitted with the application and marked Exhibits "A-1" and "A-2".
2. That all other use, height and area regulations of the Municipal Code be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.



3. That the herein-authorized zoning interpretation for the involved over-in-height fences, walls and hedges and 0-foot rear yards shall be of no force and effect unless and until clearance has been obtained from the Bureau of Engineering assuring that all dedications and improvements have been provided in conformance with the voluntary plan approved by the City Council on July 24, 1981 under Council File No. 80-573.

The applicant's attention is called to the fact that this interpretation is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this interpretation is violated or not complied with, then this interpretation shall be subject to revocation as provided in Section 12.27 of the Municipal Code. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions of this interpretation. The Zoning Administrator's determination in this matter will become effective after May 5, 1983 unless an appeal therefrom is filed with the Board of Zoning Appeals. Any appeal must be filed on the prescribed forms, accompanied by the required fee and received and receipted at a Public Office of the Department of City Planning on or before the above date or the appeal will not be accepted.

#### FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the report of the Zoning Analyst thereon, the statements made at the public hearing, before the Zoning Administrator on April 5, 1983, all of which are by reference made a part hereof, as well as personal knowledge of the property and the surrounding district, I find that the requirements for ~~granting an interpreta-~~tion under the provisions of Section 12.27-C of the Municipal Code have been established by the following facts:

1. The ownership of the involved lots have been united into a single-development endeavor in accordance with State Coastal Permit No. 266-77, as issued in December, 1977; and, a common plan for dedication and improvements as approved by the City Council on July 24, 1981 under Council File No. 80-573. To that end, 16 alleys are being widened to a width of 30 feet and improved for access; and 11 pedestrian malls are being improved from Via Dolce to the Ballona Lagoon. Since the front yards of 226 lots will front on said alleys and pedestrian walkways; and, in view of the significant amount of traffic drawn to this area from outside the community, there is a distinct need to provide for the privacy and security of the residents. This is particularly true since the involved lots are substandard (i.e., 35 feet wide to 85 feet deep) and outdoor living space will be restricted. Therefore, the request for 6-foot-high fences, walls and hedges in the required front yards of the involved properties would appear to be both reasonable and appropriate since all share problems of location within a beach community.

In another vein, the request for 0-foot rear yards on the tier of 59 RW1-1 zoned lots adjacent to the Ballona Lagoon is also deemed to be reasonable and appropriate. Access to said lots will either be from Roma Court or Via Donte which are improved 30-foot-wide alleys. Further, the lots are already restricted in terms of buildable area since State Coastal Permit No. 226-77 required a 40-foot-wide buffer along the Ballona Lagoon. To now require 5- to 15-foot rear yards would so reduce the area of said lots as to render them unbuildable; and, impose a burden which is not in keeping with the purpose and intent of the zoning regulations.

2. In view of the aforementioned discussion, it is determined that the herein-authorized over-in-height fences, walls and hedges in required front yard areas and 0-foot rear yards for the tier of RW1-1 zoned lots along the Ballona Lagoon, conform with the purpose and intent of the zoning regulations, having no material detriment to the public welfare or adverse impacts on adjacent properties and improvements. Therefore, the categorical exemption issued on December 14, 1982 is certified and it is noted that the involved site is located in Zone B, subject to the provisions of the Flood Hazard Management Specific Plan.



JAMES J. CRISP  
Associate Zoning Administrator

JJC:wr

cc: Director of Planning  
County Assessor  
Councilwoman Pat Russell  
Sixth District  
Bureau of Engineering, Street Opening  
and Widening Division

6291z



*Thorne*

CITY OF LOS ANGELES  
DEPARTMENT OF CITY PLANNING  
OFFICE OF ZONING ADMINISTRATION

R E P O R T

February 17, 1983

Isthmus Landowners Association, Inc.  
3907 Via Dolce  
Marina del Rey, CA 90291

Re: CASE NO. ZAI 82-281  
Venice Planning Area  
Zones R1-1 and RW1-1  
D. M.'s 100.5 A 149, 102 A 149  
and 102 A 147  
C. D. No. 6  
EIR: Exempt

ZONING ANALYST: RICHARD M. TAKASE

REQUEST:

To permit the installation, use and maintenance of over-in-height walls, fences and hedges up to 6 feet in height, instead of observing a maximum height of 3 feet 6 inches in the 16-foot 6-inch front yard setback area of 227 lots in the R1-1 (single-family dwelling) Zone.

Although the application also includes a request for reduced side yards for over-in-height, 6-foot-high walls, fences or hedges on the street side lot lines of corner lots in the RW1-1 (single-family residential waterways) Zone, this portion of the request apparently would require a yard variance application.

Other peculiarities noted in this application are:

1. There are more than 150 owners of individual or groups of record lots within the subject property but no evidence has been submitted to show that all owners are in agreement with the request.
2. A fence location plan has not been submitted.
3. The street names shown on the site map marked Exhibit "A" do not coincide with those shown on the district map, but it was learned that they are consistent with name changes which were approved by the City Council on February 11, 1983 (first reading). Therefore, all street names used in this report will be consistent with those shown on Exhibit "A".
4. The lots within the subject property having frontage on the canal are not through lots, under the definitions given in Section 12.03. Therefore, 6-foot-high fences may be placed on the street lot lines of these lots as a matter of right, except on the street side lot lines of corner lots.

**SUBJECT PROPERTY:**

The subject property is an aggregation of 16 level, city blocks containing a total of 292 record lots, of which 227 are in the R1-1 Zone and 65 are in the RW1-1 Zone. It is bordered on the north, northwest and southwest by the Ballona Lagoon, on the southeast by Westwind Street and on the northeast by Via Dolce and the Los Angeles County boundary.

About 12 new ~~names~~<sup>homes</sup> have been completed on the Via Dolce frontage of the subject property, and a few homes are under construction within the interior. Three gas migration monitoring stations are located in the southerly sector, as can be seen on Exhibit "A". Otherwise, the subject property is vacant.

Exhibit "B" shows that those lots bordering on the canal are zoned RW1-1 and the remainder are zoned R1-1.

**SURROUNDING PROPERTY:****North**

Adjoining properties to the north, northeast and northwest, on the opposite of Via Dolce and the Ballona Lagoon, are developed with multiple-family uses interspersed with mixed residential uses in the RW2-1 (two-family residential waterways) and R3-1 (multiple dwelling) Zones.

**South**

Properties to the south, on the opposite side of Westwind Street, are zoned R1-1 and RW1-1 and are vacant.

**East**

Properties on the easterly side of Via Dolce are developed with three- and four-story multiple-dwelling unit structures.

**West**

The Ballona Lagoon adjoins to the west. A narrow, primarily vacant strip of land borders the Lagoon to the west, beyond which are multiple-family uses, on the opposite side of Pacific Avenue.

**STREETS AND CIRCULATION:**

Via Dolce is a Collector Street developed with curbs, gutters and sidewalks bordering the subject property, within a right-of-way 50 feet wide.

Sixteen alleys within the subject property are being widened and edged with rolled berms, to 30 feet with 10-foot by 10-foot cut corners to provide primary vehicular access to and from the subject property under a voluntary plan of dedication and improvement approved by the City Council on July 24,



1981 under Council File No. 80-573. Under this plan, all streets perpendicular to Via Dolce have been converted to landscaped pedestrian malls, except Roma Court (Jib Street) on the north, and the westerly 150 feet of Union Jack Street near the south.

Roma Court is paved and guttered and has sidewalks on one side, and the westerly 150 feet of Union Jack Street is paved, with the remainder landscaped.

An oral report secured from the Bureau of Engineering revealed that all dedications have not been completed, however. It should be noted that the 10-foot by 10-foot corner cuts on all intersections, including alley and street intersections will be needed to assure safe sight distances.

#### PREVIOUS CASES, AFFIDAVITS, PERMITS, ETC.:

ZAI 81-007, approved on May 16, 1980, authorized 0-foot rear yards for all R1-1 zoned lots within the subject property and for nine lots zoned RW1-1 located north of the northeast-southwest segment of Roma Court adjoining the Ballona Lagoon.

CPC 21980, a Planning Commission initiated zone change action involving a large area including the subject property, was approved and implemented following publication of effectuating ordinances on April 1, and April 7, 1971.

CPC 20004 and 20005HD were withdrawn on January 5, 1967.

CPC 15808, a study on the proposed development in the area, including the subject property and on repealing the ordinances authorizing the continued maintenance of oil wells in the area, resulted in the adoption of an urgency ordinance on March 23, 1967, repealing all ordinances approving oil wells in the area and ordering their removal within five years unless modernized to the satisfaction of the Zoning Administrator.

#### GENERAL COMMENTS:

The emerging development of the subject property is one of very expensive, large, two- and three-story, single-family homes on substandard lots. The overall design of the development is extremely sensitive to public access to the Lagoon and the shoreline beyond, from off-site locations.

Due to the substandard width (35 feet) and depth (82.5 feet) of nearly all lots within the subject property, a substantially greater than usual proportion of yard spaces are needed to secure private, outdoor living spaces for each of the future tenants of the subject property.

The overall effect of zero front and side yards for walls proposed herein may be a "walled" neighborhood appearance unless some relief is built in. On the other hand, uncontrolled variety in materials and setbacks may result in a hodgepodge of barriers. A measure of uniformity appears to be warranted.

**GENERAL PLAN, PLAN ELEMENTS, SPECIFIC PLANS AND MORATORIUMS:****Community Plan:**

The Venice Community Plan designates residential uses for the subject property, at Low-Medium II density for that segment bordering Ballona Lagoon and at low density for the remainder. Corresponding zoning designations given in the Plan are consistent with the existing zoning.

**Flood Hazard Management Specific Plan:**

The subject property is located within Zone B of the flood insurance rate map, indicating that it is subject to 100-year floods.

**POSITIVE AND NEGATIVE ASPECTS OF THE REQUEST:****Positive**

1. The design of the overall development, including the streets and malls, appears to be an extremely reasonable solution to the problem of existing substandard lots and the request for zero to variable yards for 6-foot-high enclosures would appear to be a reasonable compromise in order to secure amenities otherwise not available to the owners of homes within this development.
2. The impact of lateral view obstruction would be purely internal to the subject property as a given feature, rather than an intrusive one.
3. The granting of the request will not adversely affect any element of the General Plan inasmuch as the basic use of the property is consistent with the General Plan and the matter at issue is not dealt with directly in any adopted General Plan element.

**Negative**

1. Without unified control over enclosure materials and design, enclosures installed by individual homeowners may become a hodge-podge in the aggregate. On the other hand, a totally uniform enclosure without relief throughout, may produce the visual impact of a walled city.
2. Without assurance that all the corner cuts and other dedications proposed under Council File 80-573 have been secured, there is no assurance that adequate intersectional sight distances will be provided.



**CONCLUSION:**

If this request is granted, it is recommended that the following conditions be applied:

1. That the applicant submit a uniform wall or fence design that will provide for visual relief, to the Associate Zoning Administrator for approval prior to utilization of the privileges granted herein. Further, a copy of such plan shall be furnished to all present and future owners of individual lots within the subject property and a covenant shall be executed and recorded by each such owner, binding on all successors, which shall require compliance with such design approved by the Associate Zoning Administrator prior to utilization of the privileges granted hereunder.
2. That the privileges granted hereunder shall not become effective on corner lots until the 10-foot by 10-foot corner cuts have been dedicated in the manner shown on exhibits contained in Council File No. 573.



RICHARD M TAKASE  
Zoning Analyst

RMT:gdt

5904z

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(213) 485-3851

April 13, 1987

Director of Planning  
Los Angeles City Planning Dept.  
Room 561-C, City Hall  
Los Angeles, CA 90012

RE: CASE NO. ZA 87-395(ZAI)  
CLARIFICATIONS, CORRECTION  
LETTERS, COMMUNICATIONS, ETC.  
OFFICE OF ZONING ADMINISTRATION

Department of Building & Safety

The Office of Zoning Administration has been advised by the City Attorney that all communications originating from this Office which accord rights to or control the use of land are subject to the provisions of Section 12.28-A of the Municipal Code. As such matters are appealable to the Board of Zoning Appeals and at least minimal notice of actions taken is required. Included among (but not limited to) the matters subject to this appeal and notice are correction letters, clarification letters, etc. This communication is directed at setting forth the procedures necessary to the proper processing of such matters.

Any request by an applicant or any other affected person for a clarification letter or other communication of an authoritative nature impacting or relating to a previous action of the Office of Zoning Administration (e.g. conditional use, zone variance, additional authority of the Zoning Administrator, etc.) shall be treated as a plan approval. Except as modified here, the fees and procedures normally attendant to the filing of plan approvals shall be followed.

Clarification or Correction Originated by the Zoning Administrator  
Occasionally, the Zoning Administrator due to clerical error, omission or lack of clarity of language may issue a letter of correction or clarification on a previous determination. When such instances occur and the clarification etc. encompasses subjects which were clearly included in the application notice and discussion, a Zoning Administrator may at his discretion prepare such a letter without requirement for an application or fee from the applicant. Copies of his letter must be mailed to adjoining property owners, persons requesting notification, the applicant and the applicant's representative.

The aforementioned letter will contain the Office of Zoning Standard Condition No. 10 relating to appeals. Fees will apply to appeals.



Clarification or Correction Originated by Persons Other than the Zoning Administrator

From time to time an applicant or an aggrieved person will request a clarification or correction letter, the issuance of which will expand or decrease to some extent the scope of the language of the grant but is still in the context of the application and intention of the Zoning Administrator in taking his original action. In such instances, the applicant/aggrieved person must fill out the plan approval application form. An applicant must pay the fee prescribed in Section 19.01-D of the Los Angeles Municipal Code for Approval of Plan Required for Zone Variance Incidental to a Conditional Use. An Aggrieved Person shall pay a fee pursuant to Section 19.01-K,2 of the Los Angeles Municipal Code.

All the instructions pursuant to filing an approval of plot plan are required except that a Zoning Administrator may waive requirements for the submission of plot plans by the applicant. Aggrieved Persons are not required to file plot plans and adjoining property owner labels or lists, but must fill out the application form stating their concerns.

General

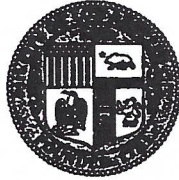
All actions by the Zoning Administrator pursuant to the above procedures will be transmitted in writing to persons requesting notice (original action as well as current). A fifteen (15) day appeal period will be allowed. Written actions will all include Standard Condition No. 10 in the Office of Zoning Administration's List of Standard Conditions. Appeals will be filed on the normal appeal form with applicant appeals at 85% of the plan approval fee and aggrieved persons paying a fee in accordance with Section 19.01-K,2 of the Los Angeles Municipal Code. These matters are not appealable to the City Council.

  
FRANKLIN P. EBERHARD  
Chief Zoning Administrator

FPE:fcc

# CITY OF LOS ANGELES

CALIFORNIA



TOM BRADLEY  
MAYOR

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(213) 485-3851

June 5, 1987

Department of Building and Safety    Re: CASE NO. ZA 87-0620(1)  
RULE OF GENERAL INTERPRETATION  
(APPLICABILITY OF APPEALS TO  
THE ZONING ADMINISTRATOR  
FROM ACTIONS OF DEPARTMENT  
OF BUILDING AND SAFETY  
PURSUANT TO SECTION 12.27-A  
OF THE MUNICIPAL CODE)

In recent months the City of Los Angeles has been enacting numerous regulations (of both a permanent and temporary nature controlling the use of land) both within the Planning and Zoning portions of the Municipal Code and as separate ordinances. From time to time disputes concerning these regulations have arisen and the matter has been appealed to the Zoning Administrator for resolution pursuant to the provisions of both Section 98 of the City Charter and Section 12.27-A of the Los Angeles Municipal Code (LAMC). The language of these provisions is broad in nature and has caused some question as to the extent of the authority of the Zoning Administrator. Taken to the extreme, this language can be taken to mean any regulation, building code, zoning code, or any other ordinance or regulation of the City which at all impacts the use of land is subject to such appeal process. This document is intended to identify those matters which are appealable to the Zoning Administrator pursuant to the above cited laws.

Section 12.27-A of the Municipal Code cites the City Charter in this matter as follows:

"1. Right of Appeal - Section 98 of the City Charter provides in part that a Zoning Administrator shall have the power and duty to "investigate and make a determination upon appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Department of Building and Safety in the enforcement or administration of the provisions of any ordinance creating zoning districts or regulating the use of property in the City." (underlining added).

The underlined portion of the above language is the portion of the Code which causes the uncertainty in applying the above provision. Conceivably the language "regulating the use of property in the City" can be interpreted very broadly to apply to any use or form of



construction on the land. The Zoning Administrator does not believe that this was the intent of the framers of the Charter and Code provisions in question.

This particular section in its current general form was enacted at the time the Zone Code enforcement responsibility was transferred by Charter amendment from the Zoning Administrator to the Department of Building and Safety in 1947. While the duty and authority of enforcing the zoning regulations was transferred to the Department of Building and Safety, it was intended that the Zoning Administrator (and the Board of Zoning Appeals on appeal) would hear appeals on actions of the Department in carrying out its enforcement responsibilities. This has been the practice over the ensuing years.

In recent years the regulation of the use of land in planning matters has gone beyond the Planning and Zoning portions (Chapter 1) of the Municipal Code. This regulation has occurred in the form of specific plans of both a geographically specific nature and citywide specific plans. Further, as the problems of over congestion and only moderately controlled development have impacted the City's various neighborhoods, the City Council and Planning Commission have seen fit to impose moratoria with a plethora of provisions controlling the use of land in a temporary way while more deliberately thought out regulations can be studied and applied in the form of either specific plans or amendments to the Municipal Code. Disputes relating to the application of these moratoria as well as to the specific plans have arisen from time to time and have been appealed and eventually resolved pursuant to the procedures related to in the above cited provisions of the Charter and Code.

Some appeals have, however, sought to go beyond the specifics of the zoning regulations or the specific controls outlined in a moratorium or specific plan ordinance. Appellants have requested that the Zoning Administrator investigate matters relating to actions of Department of Public Works with respect to new development as well as of actions of the Department of Building and Safety which have been taken with respect to Building Code provisions which have never been reviewed or acted on by the Planning Department or the City Planning Commission and over which this Department and Office should neither have nor seeks jurisdiction.

The Zoning Administrator in the past has chosen not to deal with matters which go beyond the pale of his expertise. The Zoning Administrator's decision to limit his authority in this regard is based on his understanding of the meaning of the applicable Code and Charter provisions and the intent of the framers of the Charter Section and Section 12.27-A of the LAMC. It is not the intent of the Zoning Administrator to deviate from this reasonable jurisdictional standard. As a result, the following general rule shall apply to matters considered on appeals to the Zoning Administrator from actions of the Department of Building and Safety and/or the Board of Building and Safety Commissioners:

The Zoning Administrator will limit his purview of appeals from actions of the Department of Building and Safety and/or its Commission to matters stemming from orders, requirements, decisions or determinations relating to ordinances which deal with zoning districts or regulating the use of property which have been acted on by the Los Angeles City Planning Commission as a part of their becoming law in the City of Los Angeles. These include the provisions of the Municipal Code contained in Chapter 1 of that document, (excluding Articles 7 and 8 enacted pursuant to the California Subdivision Map Act) and the various specific plans and moratoria regulating the use of land enacted by the City.

The above rule is intended to be used by the Department of Building and Safety in the acceptance of appeals to the Zoning Administrator and to be used by various Zoning Administrators in rendering determinations on such appeals.

This matter is to be published in a paper pursuant to the provisions of Section 12.27-D of the Municipal Code concerning rules of general interpretation. As such the matter is appealable to the Board of Zoning Appeals. The Zoning Administrator's determination in this matter will become effective after June 22, 1987, unless an appeal therefrom is filed with the Board of Zoning Appeals. Any appeal must be filed on the prescribed forms, accompanied by the required fee and received and receipted at a Public Office of the Department of City Planning on or before the above date or the appeal will not be accepted.

  
FRANKLIN P. EBERHARD  
Chief Zoning Administrator

FPE:lmc

cc: Honorable Board of City Planning Commissioners  
Honorable Board of Zoning Appeals  
Honorable Board of Building and Safety Commissioners  
Director of Planning  
Associate Zoning Administrators



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(213) 485-3851

May 12, 1988

Mr. Arthur K. Snyder  
Attorney at Law  
355 South Grand Avenue, Suite 3288  
Los Angeles, CA 90071-3101

Re: CASE NO. ZA 88-0600 (R)  
INTERPRETATION OF LOS ANGELES  
MUNICIPAL CODE WITH RESPECT  
TO MEASUREMENT OF HEIGHT AND  
RETAINING WALLS

Department of Building and Safety

In the matter of your request of April 11, 1988 for an interpretation as to the appropriate methodology for the measurement of the height of structures when basement walls are extended above the basement ceiling and raise the level of the finished grade from which the height of a building is measured, I have reached the ensuing conclusions.

First, Section 12.03 of the Municipal Code provides that the "Height of Building or Structure" is defined as:

"The vertical distance above grade measured to the highest point of the roof, structure or the parapet wall, whichever is highest. Retaining walls shall not be used for the purpose of raising the effective elevation of the finished grade for purposes of measuring the height of a building or structure. ..."

It is to be noted that there is included in the definition a prohibition against the use of retaining walls to raise the elevation of the finished grade from which the height of the structure or building is measured.


Secondly, a retaining wall is commonly defined as a wall which holds or to keep earth or fill in a fixed state or condition. So any wall which holds fill or earth in a fixed position or condition could be considered a retaining wall, even if it functions in some other capacity as well.

Walls, of course, can function in different roles. In this instance we have a case where a wall functions first as a basement wall and secondly as a retaining wall. The functioning of a wall as a basement wall appears to be perfectly appropriate in this Zoning Administrator's opinion. The fact that a basement wall also retains or holds back earth or fill appears to be incidental to its primary function as a basement wall. For this reason, it is not determined here that a wall which is solely a basement wall is to be considered a "retaining wall" within the meaning of the definition contained in Section 12.03 of the Los Angeles Municipal Code.

However, in this instance, we have a situation where the wall, which is a basement wall, extends well above the basement ceiling and functions to hold back earth which either accidentally or purposefully raises the elevation of the grade from which the height of the building is calculated. At some point, the top of the basement ceiling, the basement wall ceases to function as a basement wall and functions solely for the purpose of retaining earth or fill. At this point, the top of the basement ceiling, in the Zoning Administrator's opinion, for the purpose of measuring the height of structures and buildings at least, ceases to be a basement wall and is, in fact, a "retaining wall" within the meaning of the definition contained in Section 12.03 of the Los Angeles Municipal Code, relating to the definition of "Height of Building or Structure". Therefore, pursuant to the authority granted the Zoning Administrator in the Municipal Code and City Charter, it is determined that:

A wall which extends above the ceiling of a basement (as defined in the City's Building Code) and acts to hold or retain fill or dirt shall be considered as a "retaining wall" for the purpose of determining the elevation of the finished grade in the measuring of height of structures or buildings. In instances where the finished grade is below a ceiling of the basement the height of the structure is calculated from the finished grade in the manner prescribed by the Code.

In reaching the above determination, I have reviewed the material from the City's record presented by you for my consideration. The question of whether or not a basement wall becomes or does not become a retaining wall or whether or not a basement wall can also be considered as a retaining wall are simply not addressed. Retaining walls are discussed particularly with respect to the measurement of height. That discussion is generic rather than exclusive in nature, and is therefore, not in conflict, but, rather, in harmony with this interpretation.

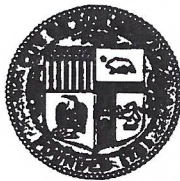


FRANKLIN P. EBERHARD  
Chief Zoning Administrator

FPE:lmc



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CALIFORNIA



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SECRETARY

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ROBERT J. PICOTT  
EARL SCHWARTZ  
TIMOTHY TAYLOR

May 18, 1988

S88.1402.8

Honorable Robert Farrell  
Councilman, Eighth District  
Room 380, City Hall

ORDINANCE NO. 160657

In your letter dated April 8, 1988, concerning Ordinance No. 160657, you state that as a member of the Planning and Environmental Committee of the City Council that you were told by Planning that the term "retaining walls", as used in Sec. 12.03 in definition of "Height of Building or Structure", would only apply to retaining structures standing away from the building or structure, and did not apply to basement walls of the building.

My staff contacted Mr. Eberhard of the Planning Department to ascertain what their official position is regarding this item. He stated that on reviewing the file it was indeed the intent not to include basement walls of buildings as retaining walls. He further stated, however, that any wall above the ceiling of the basement that was used to retain earth and to alter existing grade should be considered a retaining wall for purposes of this definition.

I would like to thank you for taking the time to share your understanding of the problem with the Department. It has helped us to establish guidelines, for measuring height of buildings, which will be in line with the intent of the action taken by the Planning and Environmental Committee and the City Council on this matter.

If further clarification on the Department's position is needed please call Richard Holguin, Chief of Structural Plan Check Division, at (213) 237-1911.

ORIGINAL SIGNED MAY 19 1988

FRANK V. KROEGER  
General Manager

FVK:RH:mb

cc: Richard Holguin  
Frank Eberhard

RECEIVED  
CITY OF LOS ANGELES

MAY 21 1988

CITY PLANNING DEPT.  
ZONING ADMINISTRATION